

[DISCUSSION DRAFT]

SEPTEMBER 29, 2003

1 **TITLE III—OIL AND GAS**
2 **Subtitle A—Strategic Petroleum**
3 **Reserve**

4 **SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRA-**
5 **TEGIC PETROLEUM RESERVE AND OTHER**
6 **ENERGY PROGRAMS.**

7 (a) AMENDMENT TO TITLE I OF THE ENERGY POL-
8 ICY AND CONSERVATION ACT.—Title I of the Energy Pol-
9 icy and Conservation Act (42 U.S.C. 6211 et seq.) is
10 amended—

11 (1) by striking section 166 (42 U.S.C. 6246)
12 and inserting the following:

13 “AUTHORIZATION OF APPROPRIATIONS

14 “SEC. 166. There are authorized to be appropriated
15 to the Secretary such sums as may be necessary to carry
16 out this part and part D, to remain available until ex-
17 pended.”;

18 (2) by striking section 186 (42 U.S.C. 6250e);
19 and

20 (3) by striking part E (42 U.S.C. 6251; relat-
21 ing to the expiration of title I of the Act).

22 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-
23 ICY AND CONSERVATION ACT.—Title II of the Energy

1 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is
2 amended—

3 (1) by inserting before section 273 (42 U.S.C.
4 6283) the following:

5 “PART C—SUMMER FILL AND FUEL BUDGETING
6 PROGRAMS”;

7 (2) by striking section 273(e) (42 U.S.C.
8 6283(e); relating to the expiration of summer fill
9 and fuel budgeting programs); and

10 (3) by striking part D (42 U.S.C. 6285; relat-
11 ing to the expiration of title II of the Act).

12 (c) TECHNICAL AMENDMENTS.—The table of con-
13 tents for the Energy Policy and Conservation Act is
14 amended—

15 (1) by inserting after the items relating to part
16 C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

“Sec. 185. Exemptions.”;

17 (2) by amending the items relating to part C of
18 title II to read as follows:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”; and

19 (3) by striking the items relating to part D of
20 title II.

1 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
2 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
3 and Conservation Act (42 U.S.C. 6250(b)(1)) is amended
4 by striking all after “increases” through to “mid-October
5 through March” and inserting “by more than 60 percent
6 over its 5-year rolling average for the months of mid-Octo-
7 ber through March (considered as a heating season aver-
8 age)”.

9 **Subtitle B—Production Incentives**

10 **SEC. 311. DEFINITION OF SECRETARY.**

11 In this subtitle, the term “Secretary” means the Sec-
12 retary of the Interior.

13 **SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.**

14 (a) APPLICABILITY OF SECTION.—Notwithstanding
15 any other provision of law, this section applies to all roy-
16 alty in-kind accepted by the Secretary on or after the date
17 of enactment of this Act under any Federal oil or gas lease
18 or permit under section 36 of the Mineral Leasing Act
19 (30 U.S.C. 192), section 27 of the Outer Continental Shelf
20 Lands Act (43 U.S.C. 1353), or any other Federal law
21 governing leasing of Federal land for oil and gas develop-
22 ment.

23 (b) TERMS AND CONDITIONS.—All royalty accruing
24 to the United States shall, on the demand of the Sec-

1 retary, be paid in oil or gas. If the Secretary makes such
2 a demand, the following provisions apply to such payment:

3 (1) SATISFACTION OF ROYALTY OBLIGATION.—

4 Delivery by, or on behalf of, the lessee of the royalty
5 amount and quality due under the lease satisfies the
6 lessee's royalty obligation for the amount delivered,
7 except that transportation and processing reimburse-
8 ments paid to, or deductions claimed by, the lessee
9 shall be subject to review and audit.

10 (2) MARKETABLE CONDITION.—

11 (A) IN GENERAL.—Royalty production
12 shall be placed in marketable condition by the
13 lessee at no cost to the United States.

14 (B) DEFINITION OF MARKETABLE CONDI-
15 TION.—In this paragraph, the term “in market-
16 able condition” means sufficiently free from im-
17 purities and otherwise in a condition that the
18 royalty production will be accepted by a pur-
19 chaser under a sales contract typical of the field
20 or area in which the royalty production was
21 produced.

22 (3) DISPOSITION BY THE SECRETARY.—The
23 Secretary may—

24 (A) sell or otherwise dispose of any royalty
25 production taken in-kind (other than oil or gas

1 transferred under section 27(a)(3) of the Outer
2 Continental Shelf Lands Act (43 U.S.C.
3 1353(a)(3)) for not less than the market price;
4 and

5 (B) transport or process (or both) any roy-
6 alty production taken in-kind.

7 (4) RETENTION BY THE SECRETARY.—The Sec-
8 retary may, notwithstanding section 3302 of title 31,
9 United States Code, retain and use a portion of the
10 revenues from the sale of oil and gas taken in-kind
11 that otherwise would be deposited to miscellaneous
12 receipts, without regard to fiscal year limitation, or
13 may use oil or gas received as royalty taken in-kind
14 (in this paragraph referred to as “royalty produc-
15 tion”) to pay the cost of—

16 (A) transporting the royalty production;

17 (B) processing the royalty production;

18 (C) disposing of the royalty production; or

19 (D) any combination of transporting, proc-
20 essing, and disposing of the royalty production.

21 (5) LIMITATION.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), the Secretary may not use
24 revenues from the sale of oil and gas taken in-

1 kind to pay for personnel, travel, or other ad-
2 ministrative costs of the Federal Government.

3 (B) EXCEPTION.—Notwithstanding sub-
4 paragraph (A), the Secretary may use a portion
5 of the revenues from the sale of oil taken in-
6 kind, without fiscal year limitation, to pay
7 transportation costs, salaries, and other admin-
8 istrative costs directly related to filling the
9 Strategic Petroleum Reserve.

10 (c) REIMBURSEMENT OF COST.—If the lessee, pursu-
11 ant to an agreement with the United States or as provided
12 in the lease, processes the royalty gas or delivers the roy-
13 alty oil or gas at a point not on or adjacent to the lease
14 area, the Secretary shall—

15 (1) reimburse the lessee for the reasonable costs
16 of transportation (not including gathering) from the
17 lease to the point of delivery or for processing costs;
18 or

19 (2) allow the lessee to deduct the transportation
20 or processing costs in reporting and paying royalties
21 in-value for other Federal oil and gas leases.

22 (d) BENEFIT TO THE UNITED STATES REQUIRED.—
23 The Secretary may receive oil or gas royalties in-kind only
24 if the Secretary determines that receiving royalties in-kind
25 provides benefits to the United States that are greater

1 than or equal to the benefits that are likely to have been
2 received had royalties been taken in-value.

3 (e) REPORTS.—

4 (1) IN GENERAL.—Not later than September
5 30, 2005, the Secretary shall submit to the Congress
6 a report that addresses—

7 (A) actions taken to develop businesses
8 processes and automated systems to fully sup-
9 port the royalty-in-kind capability to be used in
10 tandem with the royalty-in-value approach in
11 managing Federal oil and gas revenue; and

12 (B) future royalty-in-kind businesses oper-
13 ation plans and objectives.

14 (2) REPORTS ON OIL OR GAS ROYALTIES TAKEN
15 IN-KIND.—For each of fiscal years 2004 through
16 2013 in which the United States takes oil or gas
17 royalties in-kind from production in any State or
18 from the outer Continental Shelf, excluding royalties
19 taken in-kind and sold to refineries under subsection
20 (h), the Secretary shall submit to the Congress a re-
21 port that describes—

22 (A) the methodology or methodologies used
23 by the Secretary to determine compliance with
24 subsection (d), including the performance
25 standard for comparing amounts received by

1 the United States derived from royalties in-kind
2 to amounts likely to have been received had roy-
3 alties been taken in-value;

4 (B) an explanation of the evaluation that
5 led the Secretary to take royalties in-kind from
6 a lease or group of leases, including the ex-
7 pected revenue effect of taking royalties in-kind;

8 (C) actual amounts received by the United
9 States derived from taking royalties in-kind and
10 costs and savings incurred by the United States
11 associated with taking royalties in-kind, includ-
12 ing, but not limited to, administrative savings
13 and any new or increased administrative costs;
14 and

15 (D) an evaluation of other relevant public
16 benefits or detriments associated with taking
17 royalties in-kind.

18 (f) DEDUCTION OF EXPENSES.—

19 (1) IN GENERAL.—Before making payments
20 under section 35 of the Mineral Leasing Act (30
21 U.S.C. 191) or section 8(g) of the Outer Continental
22 Shelf Lands Act (43 U.S.C. 1337(g)) of revenues
23 derived from the sale of royalty production taken in-
24 kind from a lease, the Secretary shall deduct
25 amounts paid or deducted under subsections (b)(4)

1 and (c) and deposit the amount of the deductions in
2 the miscellaneous receipts of the United States
3 Treasury.

4 (2) ACCOUNTING FOR DEDUCTIONS.—When the
5 Secretary allows the lessee to deduct transportation
6 or processing costs under subsection (c), the Sec-
7 retary may not reduce any payments to recipients of
8 revenues derived from any other Federal oil and gas
9 lease as a consequence of that deduction.

10 (g) CONSULTATION WITH STATES.—The Secretary—

11 (1) shall consult with a State before conducting
12 a royalty in-kind program under this subtitle within
13 the State, and may delegate management of any
14 portion of the Federal royalty in-kind program to
15 the State except as otherwise prohibited by Federal
16 law; and

17 (2) shall consult annually with any State from
18 which Federal oil or gas royalty is being taken in-
19 kind to ensure, to the maximum extent practicable,
20 that the royalty in-kind program provides revenues
21 to the State greater than or equal to those likely to
22 have been received had royalties been taken in-value.

23 (h) SMALL REFINERIES.—

24 (1) PREFERENCE.—If the Secretary finds that
25 sufficient supplies of crude oil are not available in

1 the open market to refineries that do not have their
2 own source of supply for crude oil, the Secretary
3 may grant preference to such refineries in the sale
4 of any royalty oil accruing or reserved to the United
5 States under Federal oil and gas leases issued under
6 any mineral leasing law, for processing or use in
7 such refineries at private sale at not less than the
8 market price.

9 (2) PRORATION AMONG REFINERIES IN PRO-
10 Duction AREA.—In disposing of oil under this sub-
11 section, the Secretary of Energy may, at the discre-
12 tion of the Secretary, prorate the oil among refin-
13 eries described in paragraph (1) in the area in which
14 the oil is produced.

15 (i) DISPOSITION TO FEDERAL AGENCIES.—

16 (1) ONSHORE ROYALTY.—Any royalty oil or gas
17 taken by the Secretary in-kind from onshore oil and
18 gas leases may be sold at not less than the market
19 price to any Federal agency.

20 (2) OFFSHORE ROYALTY.—Any royalty oil or
21 gas taken in-kind from a Federal oil or gas lease on
22 the outer Continental Shelf may be disposed of only
23 under section 27 of the Outer Continental Shelf
24 Lands Act (43 U.S.C. 1353).

1 (j) PREFERENCE FOR FEDERAL LOW-INCOME EN-
2 ERGY ASSISTANCE PROGRAMS.—In disposing of royalty oil
3 or gas taken in-kind under this section, the Secretary may
4 grant a preference to any person, including any Federal
5 or State agency, for the purpose of providing additional
6 resources to any Federal low-income energy assistance
7 program.

8 **SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

9 (a) DEFINITION OF MARGINAL PROPERTY.—Until
10 such time as the Secretary promulgates regulations under
11 subsection (e) that prescribe a different definition, in this
12 section the term “marginal property” means an onshore
13 unit, communitization agreement, or lease not within a
14 unit or communitization agreement, that produces on av-
15 erage the combined equivalent of less than 15 barrels of
16 oil per well per day or 90 million British thermal units
17 of gas per well per day calculated based on the average
18 over the 3 most recent production months, including only
19 wells that produce on more than half of the days during
20 those 3 production months.

21 (b) CONDITIONS FOR REDUCTION OF ROYALTY
22 RATE.—Until such time as the Secretary promulgates reg-
23 ulations under subsection (e) that prescribe different
24 thresholds or standards, the Secretary shall reduce the
25 royalty rate on—

1 (1) oil production from marginal properties as
2 prescribed in subsection (c) when the spot price of
3 West Texas Intermediate crude oil at Cushing, Okla-
4 homa, is, on average, less than \$15 per barrel for 90
5 consecutive trading days; and

6 (2) gas production from marginal properties as
7 prescribed in subsection (c) when the spot price of
8 natural gas delivered at Henry Hub, Louisiana, is,
9 on average, less than \$2.00 per million British ther-
10 mal units for 90 consecutive trading days.

11 (c) REDUCED ROYALTY RATE.—

12 (1) IN GENERAL.—When a marginal property
13 meets the conditions specified in subsection (b), the
14 royalty rate shall be the lesser of—

15 (A) 5 percent; or

16 (B) the applicable rate under any other
17 statutory or regulatory royalty relief provision
18 that applies to the affected production.

19 (2) PERIOD OF EFFECTIVENESS.—The reduced
20 royalty rate under this subsection shall be effective
21 beginning on the first day of the production month
22 following the date on which the applicable condition
23 specified in subsection (b) is met.

1 (d) TERMINATION OF REDUCED ROYALTY RATE.—

2 A royalty rate prescribed in subsection (d)(1)(A) shall
3 terminate—

4 (1) with respect to oil production from a mar-
5 ginal property, on the first day of the production
6 month following the date on which—

7 (A) the spot price of West Texas Inter-
8 mediate crude oil at Cushing, Oklahoma, on av-
9 erage, exceeds \$15 per barrel for 90 consecutive
10 trading days, or

11 (B) the property no longer qualifies as a
12 marginal property; and

13 (2) with respect to gas production from a mar-
14 ginal property, on the first day of the production
15 month following the date on which—

16 (A) the spot price of natural gas delivered
17 at Henry Hub, Louisiana, on average, exceeds
18 \$2.00 per million British thermal units for 90
19 consecutive trading days; or

20 (B) the property no longer qualifies as a
21 marginal property.

22 (e) REGULATIONS PRESCRIBING DIFFERENT RE-
23 LIEF.—

24 (1) DISCRETIONARY REGULATIONS.—The Sec-
25 retary may by regulation prescribe different param-

1 eters, standards, and requirements for, and a dif-
2 ferent degree or extent of, royalty relief for marginal
3 properties in lieu of those prescribed in subsections
4 (a) through (d).

5 (2) MANDATORY REGULATIONS.—Not later
6 than 18 months after the date of enactment of this
7 Act, the Secretary shall by regulation—

8 (A) prescribe standards and requirements
9 for, and the extent of royalty relief for, mar-
10 ginal properties for oil and gas leases on the
11 outer Continental Shelf; and

12 (B) define what constitutes a marginal
13 property on the outer Continental Shelf for pur-
14 poses of this section.

15 (3) CONSIDERATIONS.—In promulgating regu-
16 lations under this subsection, the Secretary may
17 consider—

18 (A) oil and gas prices and market trends;

19 (B) production costs;

20 (C) abandonment costs;

21 (D) Federal and State tax provisions and
22 the effects of those provisions on production ec-
23 onomics;

24 (E) other royalty relief programs;

1 (F) regional differences in average well-
2 head prices;

3 (G) national energy security issues; and

4 (H) other relevant matters.

5 (f) SAVINGS PROVISION.—Nothing in this section
6 prevents a lessee from receiving royalty relief or a royalty
7 reduction pursuant to any other law (including a regula-
8 tion) that provides more relief than the amounts provided
9 by this section.

10 **SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION**
11 **FROM DEEP WELLS IN THE SHALLOW WA-**
12 **TERS OF THE GULF OF MEXICO.**

13 (a) ROYALTY INCENTIVE REGULATIONS.—The Sec-
14 retary shall publish a final regulation to complete the rule-
15 making begun by the Notice of Proposed Rulemaking enti-
16 tled “Relief or Reduction in Royalty Rates—Deep Gas
17 Provisions”, published in the Federal Register on March
18 26, 2003 (Federal Register, volume 68, number 58,
19 14868-14886).

20 (b) ROYALTY INCENTIVE REGULATIONS FOR ULTRA
21 DEEP GAS WELLS.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of enactment of this Act, in addition
24 to any other regulations that may provide royalty in-
25 centives for natural gas produced from deep wells on

1 oil and gas leases issued pursuant to the Outer Con-
2 tinental Shelf Lands Act (43 U.S.C. 1331 et seq.),
3 the Secretary shall promulgate regulations, in ac-
4 cordance with the regulations published pursuant to
5 subsection (a), granting royalty relief suspension vol-
6 umes of not less than 35,000,000,000 cubic feet
7 with respect to the production of natural gas from
8 ultra deep wells on leases issued before January 1,
9 2001, in shallow waters less than 200 meters deep
10 located in the Gulf of Mexico wholly west of 87 de-
11 grees, 30 minutes West longitude. Regulations pro-
12 mulgated under this subsection shall be retroactive
13 to the date that the Notice of Proposed Rulemaking
14 is published in the Federal Register.

15 (2) DEFINITION OF ULTRA DEEP WELL.—In
16 this subsection, the term “ultra deep well” means a
17 well drilled with a perforated interval, the top of
18 which is at least 20,000 feet true vertical depth
19 below the datum at mean sea level.

20 (3) LIMITATION.—The Secretary shall not
21 grant the royalty incentives under this subsection if
22 the average annual NYMEX natural gas price ex-
23 ceeds for 1 full calendar year the threshold price of
24 \$5 per million Btu, adjusted from the year 2000 for
25 inflation.

1 (4) CESSATION OF EFFECTIVENESS.—This sub-
2 section ceases to be effective on the date that is 5
3 years after the date of enactment of this Act.

4 **SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUC-**
5 **TION.**

6 (a) IN GENERAL.—For all tracts located in water
7 depths of greater than 400 meters in the Western and
8 Central Planning Area of the Gulf of Mexico, including
9 the portion of the Eastern Planning Area of the Gulf of
10 Mexico encompassing whole lease blocks lying west of 87
11 degrees, 30 minutes West longitude, any oil or gas lease
12 sale under the Outer Continental Shelf Lands Act (43
13 U.S.C. 1331 et seq.) occurring within 5 years after the
14 date of enactment of this Act shall use the bidding system
15 authorized in section 8(a)(1)(H) of the Outer Continental
16 Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that
17 the suspension of royalties shall be set at a volume of not
18 less than—

19 (1) 5,000,000 barrels of oil equivalent for each
20 lease in water depths of 400 to 800 meters;

21 (2) 9,000,000 barrels of oil equivalent for each
22 lease in water depths of 800 to 1,600 meters; and

23 (3) 12,000,000 barrels of oil equivalent for each
24 lease in water depths greater than 1,600 meters.

1 (b) LIMITATION.—The Secretary may place limita-
2 tions on the suspension of royalty relief granted based on
3 market price.

4 **SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.**

5 Section 8(a)(3)(B) of the Outer Continental Shelf
6 Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by in-
7 serting “and in the Planning Areas offshore Alaska” after
8 “West longitude”.

9 **SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETRO-**
10 **LEUM RESERVE IN ALASKA.**

11 (a) TRANSFER OF AUTHORITY.—

12 (1) REDESIGNATION.—The Naval Petroleum
13 Reserves Production Act of 1976 (42 U.S.C. 6501
14 et seq.) is amended by redesignating section 107 (42
15 U.S.C. 6507) as section 108.

16 (2) TRANSFER.—The matter under the heading
17 “EXPLORATION OF NATIONAL PETROLEUM RESERVE
18 IN ALASKA” under the heading “ENERGY AND
19 MINERALS” of title I of Public Law 96-514 (42
20 U.S.C. 6508) is—

21 (A) transferred to the Naval Petroleum
22 Reserves Production Act of 1976 (42 U.S.C.
23 6501 et seq.);

24 (B) redesignated as section 107 of that
25 Act; and

1 (C) moved so as to appear after section
2 106 of that Act (42 U.S.C. 6506).

3 (b) COMPETITIVE LEASING.—Section 107 of the
4 Naval Petroleum Reserves Production Act of 1976 (as
5 amended by subsection (a) of this section) is amended—

6 (1) by striking the heading and all that follows
7 through “*Provided, That* (1) activities” and insert-
8 ing the following:

9 **“SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-
11 vision of law and pursuant to regulations promulgated by
12 the Secretary, the Secretary shall conduct an expeditious
13 program of competitive leasing of oil and gas in the Na-
14 tional Petroleum Reserve in Alaska (referred to in this
15 section as the ‘Reserve’).

16 “(b) MITIGATION OF ADVERSE EFFECTS.—Activi-
17 ties”;

18 (2) by striking “Alaska (the Reserve); (2) the”
19 and inserting “Alaska”.

20 “(c) LAND USE PLANNING; BLM WILDERNESS
21 STUDY.—The”;

22 (3) by striking “Reserve; (3) the” and inserting
23 “Reserve.

24 “(d) FIRST LEASE SALE.—The”;

1 (4) by striking “4332); (4) the” and inserting
2 “4321 et seq.).

3 “(e) WITHDRAWALS.—The”;

4 (5) by striking “herein; (5) bidding” and insert-
5 ing “under this section.

6 “(f) BIDDING SYSTEMS.—Bidding”;

7 (6) by striking “629); (6) lease” and inserting
8 “629).

9 “(g) GEOLOGICAL STRUCTURES.—Lease”;

10 (7) by striking “structures; (7) the” and insert-
11 ing “structures.

12 “(h) SIZE OF LEASE TRACTS.—The”;

13 (8) by striking “Secretary; (8)” and all that fol-
14 lows through “Drilling, production,” and inserting
15 “Secretary.

16 “(i) TERMS.—

17 “(1) IN GENERAL.—Each lease shall be—

18 “(A) issued for an initial period of not
19 more than 10 years; and

20 “(B) renewed for a 10-year term if—

21 “(i) oil or gas is produced from the
22 lease in paying quantities;

23 “(ii) oil or gas is capable of being pro-
24 duced in paying quantities; or

1 “(iii) drilling or reworking operations,
2 as approved by the Secretary, are con-
3 ducted on the leased land.

4 “(2) RENEWAL OF NONPRODUCING LEASES.—
5 The Secretary shall renew for an additional 10-year
6 term a lease that does not meet the requirements of
7 paragraph (1)(B) if the lessee submits to the Sec-
8 retary an application for renewal not later than 60
9 days before the expiration of the primary lease
10 and—

11 “(A) the lessee certifies, and the Secretary
12 agrees that, hydrocarbon resources were discov-
13 ered on 1 or more wells drilled on the leased
14 land in such quantities that a prudent operator
15 would hold the lease for potential future devel-
16 opment;

17 “(B) the lessee—

18 “(i) pays the Secretary a renewal fee
19 of \$100 per acre of leased land; and

20 “(ii) provides evidence, and the Sec-
21 retary agrees that, the lessee has diligently
22 pursued exploration that warrants continu-
23 ation with the intent of continued explo-
24 ration or future development of the leased
25 land; or

1 “(C) all or part of the lease—

2 “(i) is part of a unit agreement cov-
3 ering leases described in subparagraph (A);
4 and

5 “(ii) has not been previously con-
6 tracted out of the unit.

7 “(3) SHARING OF INFORMATION.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), in the case of land owned by the
10 State of Alaska or a Regional Corporation (as
11 defined in section 3 of the Alaska Native
12 Claims Settlement Act (43 U.S.C. 1602)) that
13 is adjacent to land for which a lease is ex-
14 tended, or a unit agreement formed or ex-
15 panded, under this section, the Secretary may
16 share with the State and the Regional
17 Corporation—

18 “(i) any confidential data and infor-
19 mation possessed by the Secretary relating
20 to the land; and

21 “(ii) any interpretation or appraisal
22 possessed by the Secretary relating to the
23 oil and gas potential of the land.

24 “(B) CONDITIONS.—Subparagraph (A) ap-
25 plies if—

1 “(i) the lessee approves the sharing of
2 data and information under subparagraph
3 (A); and

4 “(ii) the State or Regional Corpora-
5 tion (as applicable) enters into a written
6 nondisclosure agreement with the Sec-
7 retary with respect to the information.

8 “(4) APPLICABILITY.—This subsection applies
9 to a lease that—

10 “(A) is entered into before, on, or after the
11 date of enactment of the **【Energy Policy Act of**
12 **2003】**; and

13 “(B) is effective on or after the date of en-
14 actment of that Act.

15 “(j) UNIT AGREEMENTS.—

16 “(1) IN GENERAL.—For the purpose of con-
17 servation of the natural resources of all or part of
18 any oil or gas pool, field, reservoir, or like area, les-
19 sees (including representatives) of the pool, field,
20 reservoir, or like area may unite with each other, or
21 jointly or separately with others, in collectively
22 adopting and operating under a unit agreement for
23 all or part of the pool, field, reservoir, or like area
24 (whether or not any other part of the oil or gas pool,
25 field, reservoir, or like area is already subject to any

1 cooperative or unit plan of development or oper-
2 ation), if the Secretary determines the action to be
3 necessary or advisable in the public interest.

4 “(2) PARTICIPATION BY STATE OF ALASKA.—
5 The Secretary shall consult with the State of Alaska
6 concerning creation and management of units
7 formed or expanded under this subsection that in-
8 clude acreage in which the State of Alaska has an
9 interest in the mineral estate.

10 “(3) PARTICIPATION BY REGIONAL CORPORA-
11 TIONS.—The Secretary shall consult with any Re-
12 gional Corporation (as defined in section 3 of the
13 Alaska Native Claims Settlement Act (43 U.S.C.
14 1602)) concerning creation and management of
15 units that include acreage in which the Regional
16 Corporation has an interest in the mineral estate.

17 “(4) PRODUCTION ALLOCATION METHOD-
18 OLOGY.—A production allocation methodology for
19 each participating area within a unit created for
20 land in the Reserve, State of Alaska land, or Re-
21 gional Corporation land shall be based on the char-
22 acteristics of each specific oil or gas pool, field, res-
23 ervoir, or like area to take into account reservoir
24 heterogeneity and a real variation in reservoir
25 producibility across diverse leasehold interests.

1 “(5) BENEFIT OF OPERATIONS.—Drilling, pro-
2 duction,”;

3 (9) by striking “When separate” and inserting
4 the following:

5 “(6) POOLING.—If separate”;

6 (10) by inserting “(in consultation with the
7 owners of the other land)” after “determined by the
8 Secretary of the Interior”;

9 (11) by striking “thereto; (10) to” and all that
10 follows through “the terms provided therein” and in-
11 serting “to the agreement.

12 “(k) EXPLORATION INCENTIVES.—

13 “(1) IN GENERAL.—

14 “(A) WAIVER, SUSPENSION, OR REDUC-
15 TION.—To encourage the greatest ultimate re-
16 covery of oil or gas or in the interest of con-
17 servation, the Secretary may waive, suspend, or
18 reduce the rental fees or minimum royalty, or
19 reduce the royalty on an entire leasehold (in-
20 cluding on any lease operated pursuant to a
21 unit agreement), if (after consultation with the
22 State of Alaska and the concurrence of any Re-
23 gional Corporation for leases that include lands
24 available for acquisition by the Regional Cor-
25 poration under the provisions of section 1431(o)

1 of the Alaska National Interest Lands Con-
2 servation Act (16 U.S.C. 3101 et seq.)) the
3 Secretary determines that the waiver, suspen-
4 sion, or reduction is in the public interest.

5 “(B) APPLICABILITY.—This paragraph ap-
6 plies to a lease that—

7 “(i) is entered into before, on, or after
8 the date of enactment of the **Energy Pol-**
9 **icy Act of 2003**”; and

10 “(ii) is effective on or after the date
11 of enactment of that Act.”;

12 (12) by striking “The Secretary is authorized
13 to” and inserting the following:

14 “(2) SUSPENSION OF OPERATIONS AND PRO-
15 Duction.—The Secretary may”;

16 (13) by striking “In the event” and inserting
17 the following:

18 “(3) SUSPENSION OF PAYMENTS.—If”;

19 (14) by striking “thereto; and (11) all” and in-
20 serting “to the lease.

21 “(l) RECEIPTS.—All”;

22 (15) by redesignating clauses (A), (B), and (C)
23 as clauses (1), (2), and (3), respectively;

24 (16) by striking “Any agency” and inserting
25 the following:

1 “(m) EXPLORATIONS.—Any agency”;

2 (17) by striking “Any action” and inserting the
3 following:

4 “(n) ENVIRONMENTAL IMPACT STATEMENTS.—

5 “(1) JUDICIAL REVIEW.—Any action”;

6 (18) by striking “The detailed” and inserting
7 the following:

8 “(2) INITIAL LEASE SALES.—The detailed”;

9 (19) by striking “of the Naval Petroleum Re-
10 serves Production Act of 1976 (90 Stat. 304; 42
11 U.S.C. 6504)”;

12 (20) by adding at the end the following:

13 “(o) WAIVER OF ADMINISTRATION FOR CONVEYED
14 LANDS.—Notwithstanding section 14(g) of the Alaska
15 Native Claims Settlement Act (43 U.S.C. 1613) or any
16 other provision of law—

17 “(1) the Secretary of the Interior shall waive
18 administration of any oil and gas lease insofar as
19 such lease covers any land in the National Petro-
20 leum Reserve in Alaska in which the subsurface es-
21 tate is conveyed to the Arctic Slope Regional Cor-
22 poration; and

23 “(2) if any such conveyance of such subsurface
24 estate does not cover all the land embraced within
25 any such oil and gas lease—

1 “(A) the person who owns the subsurface
2 estate in any particular portion of the land cov-
3 ered by such lease shall be entitled to all of the
4 revenues reserved under such lease as to such
5 portion, including, without limitation, all the
6 royalty payable with respect to oil or gas pro-
7 duced from such particular portion of the land
8 covered by such lease; and

9 “(B) the Secretary of the Interior shall
10 segregate such lease into 2 leases, one of which
11 shall cover only the subsurface estate conveyed
12 to the Arctic Slope Regional Corporation, and
13 operations, production, or other circumstances
14 (other than payment of rentals or royalties)
15 that satisfy obligations of the lessee under, or
16 maintain, either of the segregated leases shall
17 likewise satisfy obligations of the lessee under,
18 or maintain, the other segregated lease to the
19 same extent as if such segregated leases re-
20 mained a part of the original unsegregated
21 lease.”.

22 **SEC. 318. ORPHANED, ABANDONED, OR IDLED WELLS ON**
23 **FEDERAL LAND.**

24 (a) IN GENERAL.—The Secretary, in cooperation
25 with the Secretary of Agriculture, shall establish a pro-

1 gram within 1 year after the date of enactment of this
2 Act to remediate, reclaim, and close orphaned, abandoned,
3 or idled oil and gas wells located on land administered by
4 the land management agencies within the Department of
5 the Interior and the Department of Agriculture.

6 (b) ACTIVITIES.—The program under subsection (a)
7 shall—

8 (1) include a means of ranking orphaned, aban-
9 doned, or idled wells sites for priority in remedi-
10 ation, reclamation, and closure, based on public
11 health and safety, potential environmental harm,
12 and other land use priorities;

13 (2) provide for identification and recovery of
14 the costs of remediation, reclamation, and closure
15 from persons or other entities currently providing a
16 bond or other financial assurance required under
17 State or Federal law for an oil or gas well that is
18 orphaned, abandoned or idled; and

19 (3) provide for recovery from the persons or en-
20 tities identified under paragraph (2), or their sure-
21 ties or guarantors, of the costs of remediation, rec-
22 lamation, and closure of such wells.

23 (c) COOPERATION AND CONSULTATIONS.—In car-
24 rying out the program under subsection (a), the Secretary
25 shall—

1 (1) work cooperatively with the Secretary of Ag-
2 riculture and the States within which Federal land
3 is located; and

4 (2) consult with the Secretary of Energy and
5 the Interstate Oil and Gas Compact Commission.

6 (d) PLAN.—Within 1 year after the date of enact-
7 ment of this Act, the Secretary, in cooperation with the
8 Secretary of Agriculture, shall submit to the Congress a
9 plan for carrying out the program under subsection (a).

10 (e) IDLED WELL.—For the purposes of this section,
11 a well is idled if—

12 (1) the well has been nonoperational for at least
13 7 years; and

14 (2) there is no anticipated beneficial use for the
15 well.

16 (f) TECHNICAL ASSISTANCE PROGRAM FOR NON-
17 FEDERAL LAND.—

18 (1) IN GENERAL.—The Secretary of Energy
19 shall establish a program to provide technical and fi-
20 nancial assistance to oil and gas producing States to
21 facilitate State efforts over a 10-year period to en-
22 sure a practical and economical remedy for environ-
23 mental problems caused by orphaned or abandoned
24 oil and gas exploration or production well sites on
25 State or private land.

1 (2) ASSISTANCE.—The Secretary of Energy
2 shall work with the States, through the Interstate
3 Oil and Gas Compact Commission, to assist the
4 States in quantifying and mitigating environmental
5 risks of onshore orphaned or abandoned oil or gas
6 wells on State and private land.

7 (3) ACTIVITIES.—The program under para-
8 graph (1) shall include—

9 (A) mechanisms to facilitate identification,
10 if feasible, of the persons currently providing a
11 bond or other form of financial assurance re-
12 quired under State or Federal law for an oil or
13 gas well that is orphaned or abandoned;

14 (B) criteria for ranking orphaned or aban-
15 doned well sites based on factors such as public
16 health and safety, potential environmental
17 harm, and other land use priorities;

18 (C) information and training programs on
19 best practices for remediation of different types
20 of sites; and

21 (D) funding of State mitigation efforts on
22 a cost-shared basis.

23 (g) FEDERAL REIMBURSEMENT FOR ORPHANED
24 WELL RECLAMATION PILOT PROGRAM.—

1 (1) REIMBURSEMENT FOR REMEDIATING, RE-
2 CLAIMING, AND CLOSING WELLS ON LAND SUBJECT
3 TO A NEW LEASE.—The Secretary shall carry out a
4 pilot program under which, in issuing a new oil and
5 gas lease on federally owned land on which 1 or
6 more orphaned wells are located, the Secretary—

7 (A) may require, but not as a condition of
8 the lease, that the lessee remediate, reclaim,
9 and close in accordance with standards estab-
10 lished by the Secretary, all orphaned wells on
11 the land leased; and

12 (B) shall develop a program to reimburse
13 a lessee, through a royalty credit for the Fed-
14 eral share of royalties owed or other means, for
15 the reasonable actual costs of remediating, re-
16 claiming, and closing the orphaned well pursu-
17 ant to that requirement.

18 (2) REIMBURSEMENT FOR RECLAIMING OR-
19 PHANED WELLS ON OTHER LAND.—In carrying out
20 this subsection, the Secretary—

21 (A) may authorize any lessee under an oil
22 and gas lease on federally owned land to re-
23 claim in accordance with the Secretary's
24 standards—

1 (i) an orphaned well on unleased fed-
2 erally owned land; or

3 (ii) an orphaned well located on an ex-
4 isting lease on federally owned land for the
5 reclamation of which the lessee is not le-
6 gally responsible; and

7 (B) shall develop a program to provide re-
8 imbursement of 115 percent of the reasonable
9 actual costs of remediating, reclaiming, and
10 closing the orphaned well, though credits for
11 the Federal share of royalties or other means.

12 (3) EFFECT OF REMEDIATION, RECLAMATION,
13 OR CLOSURE OF WELL PURSUANT TO AN APPROVED
14 REMEDIATION PLAN.—

15 (A) DEFINITION OF REMEDIATING
16 PARTY.—In this paragraph the term “remedi-
17 ating party” means a person who remediates,
18 reclaims, or closes an abandoned, orphaned, or
19 idled well pursuant to this subsection.

20 (B) GENERAL RULE.—A remediating party
21 who remediates, reclaims, or closes an aban-
22 doned, orphaned, or idled well in accordance
23 with a detailed written remediation plan ap-
24 proved by the Secretary under this subsection,

1 shall be immune from civil liability under Fed-
2 eral environmental laws, for—

3 (i) pre-existing environmental condi-
4 tions at or associated with the well, unless
5 the remediating party owns or operates, in
6 the past owned or operated, or is related to
7 a person that owns or operates or in the
8 past owned or operated, the well or the
9 land on which the well is located; or

10 (ii) any remaining releases of pollut-
11 ants from the well during or after comple-
12 tion of the remediation, reclamation, or
13 closure of the well, unless the remediating
14 party causes increased pollution as a result
15 of activities that are not in accordance
16 with the approved remediation plan.

17 (C) LIMITATIONS.—Nothing in this section
18 shall limit in any way the liability of a remedi-
19 ating party for injury, damage, or pollution re-
20 sulting from the remediating party's acts or
21 omissions that are not in accordance with the
22 approved remediation plan, are reckless or will-
23 ful, constitute gross negligence or wanton mis-
24 conduct, or are unlawful.

1 (4) REGULATIONS.—The Secretary may pro-
2 mulgate such regulations as are appropriate to carry
3 out this subsection.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) IN GENERAL.—There is authorized to be
6 appropriated to carry out this section \$25,000,000
7 for each of fiscal years 2005 through 2009.

8 (2) USE.—Of the amounts authorized under
9 paragraph (1), \$5,000,000 is authorized for each fis-
10 cal year for activities under subsection (f).

11 **SEC. 319. COMBINED HYDROCARBON LEASING.**

12 (a) SPECIAL PROVISIONS REGARDING LEASING.—
13 Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C.
14 226(b)(2)) is amended—

15 (1) by inserting “(A)” after “(2)”; and

16 (2) by adding at the end the following:

17 “(B) For any area that contains any combination of
18 tar sand and oil or gas (or both), the Secretary may issue
19 under this Act, separately—

20 “(i) a lease for exploration for and extraction of
21 tar sand; and

22 “(ii) a lease for exploration for and development
23 of oil and gas.

24 “(C) A lease issued for tar sand shall be issued using
25 the same bidding process, annual rental, and posting pe-

1 riod as a lease issued for oil and gas, except that the min-
2 imum acceptable bid required for a lease issued for tar
3 sand shall be \$2 per acre.

4 “(D) The Secretary may waive, suspend, or alter any
5 requirement under section 26 that a permittee under a
6 permit authorizing prospecting for tar sand must exercise
7 due diligence, to promote any resource covered by a com-
8 bined hydrocarbon lease.”.

9 (b) CONFORMING AMENDMENT.—Section
10 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C.
11 226(b)(1)(B)) is amended in the second sentence by in-
12 serting “, subject to paragraph (2)(B),” after “Sec-
13 retary”.

14 (c) REGULATIONS.—Within 45 days after the date of
15 enactment of this Act, the Secretary shall issue final regu-
16 lations to implement this section.

17 **SEC. 320. LIQUIFIED NATURAL GAS.**

18 Section 3 of the Natural Gas Act (15 U.S.C. 717b)
19 is amended by adding at the end the following:

20 “(d) LIMITATION ON COMMISSION AUTHORITY.—If
21 an applicant under this section proposes to construct or
22 expand a liquefied natural gas terminal either onshore or
23 in State waters for the purpose of importing liquefied nat-
24 ural gas into the United States, the Commission shall not
25 deny or condition the application solely on the basis that

1 the applicant proposes to utilize the terminal exclusively
2 or partially for gas that the applicant or any affiliate
3 thereof will supply thereto. In all other respects, sub-
4 section (a) shall remain applicable to any such proposal.”.

5 **SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE**
6 **OUTER CONTINENTAL SHELF.**

7 (a) AMENDMENT TO OUTER CONTINENTAL SHELF
8 LANDS ACT.—Section 8 of the Outer Continental Shelf
9 Lands Act (43 U.S.C. 1337) is amended by adding at the
10 end the following:

11 “(p) EASEMENTS OR RIGHTS-OF-WAY FOR ENERGY
12 AND RELATED PURPOSES.—

13 “(1) IN GENERAL.—The Secretary, in consulta-
14 tion with the Secretary of the Department in which
15 the Coast Guard is operating and other relevant de-
16 partments and agencies of the Federal Government,
17 may grant an easement or right-of-way on the outer
18 Continental Shelf for activities not otherwise author-
19 ized in this Act, the Deepwater Port Act of 1974
20 (33 U.S.C. 1501 et seq.), or the Ocean Thermal En-
21 ergy Conversion Act of 1980 (42 U.S.C. 9101 et
22 seq.), or other applicable law, if those activities—

23 “(A) support exploration, development,
24 production, transportation, or storage of oil,
25 natural gas, or other minerals;

1 “(B) produce or support production, trans-
2 portation, or transmission of energy from
3 sources other than oil and gas; or

4 “(C) use, for energy-related purposes, fa-
5 cilities currently or previously used for activities
6 authorized under this Act.

7 “(2) PAYMENTS.—The Secretary shall establish
8 reasonable forms of annual or 1-time payments for
9 any easement or right-of-way granted under this
10 subsection. Such payments shall not be assessed on
11 the basis of throughput or production. The Secretary
12 may establish fees, rentals, bonus, or other payments
13 by rule or by agreement with the party to which the
14 easement or right-of-way is granted.

15 “(3) CONSULTATION.—Before exercising au-
16 thority under this subsection, the Secretary shall
17 consult with the Secretary of Defense and other ap-
18 propriate agencies concerning issues related to na-
19 tional security and navigational obstruction.

20 “(4) COMPETITIVE OR NONCOMPETITIVE
21 BASIS.—

22 “(A) IN GENERAL.—The Secretary may
23 issue an easement or right-of-way for energy
24 and related purposes as described in paragraph
25 (1) on a competitive or noncompetitive basis.

1 “(B) CONSIDERATIONS.—In determining
2 whether an easement or right-of-way shall be
3 granted competitively or noncompetitively, the
4 Secretary shall consider such factors as—

5 “(i) prevention of waste and conserva-
6 tion of natural resources;

7 “(ii) the economic viability of an en-
8 ergy project;

9 “(iii) protection of the environment;

10 “(iv) the national interest and na-
11 tional security;

12 “(v) human safety;

13 “(vi) protection of correlative rights;

14 and

15 “(vii) potential return for the ease-
16 ment or right-of-way.

17 “(5) REGULATIONS.—The Secretary, in con-
18 sultation with the Secretary of the Department in
19 which the Coast Guard is operating and other rel-
20 evant agencies of the Federal Government and af-
21 fected States, shall promulgate any necessary regula-
22 tions to ensure safety, protection of the environment,
23 prevention of waste, and conservation of the natural
24 resources of the outer Continental Shelf, protection

1 of national security interests, and protection of cor-
2 relative rights in the outer Continental Shelf.

3 “(6) SECURITY.—The Secretary shall require
4 the holder of an easement or right-of-way granted
5 under this subsection to furnish a surety bond or
6 other form of security, as prescribed by the Sec-
7 retary, and to comply with such other requirements
8 as the Secretary considers necessary to protect the
9 interests of the United States.

10 “(7) EFFECT OF SUBSECTION.—Nothing in this
11 subsection displaces, supersedes, limits, or modifies
12 the jurisdiction, responsibility, or authority of any
13 Federal or State agency under any other Federal
14 law.

15 “(8) APPLICABILITY.—This subsection does not
16 apply to any area on the outer Continental Shelf
17 designated as a National Marine Sanctuary.”.

18 (b) CONFORMING AMENDMENT.—Section 8 of the
19 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is
20 amended by striking the section heading and inserting the
21 following: “LEASES, EASEMENTS, AND RIGHTS-OF-WAY
22 ON THE OUTER CONTINENTAL SHELF.—”.

23 (c) LIMITATION.—This section shall take effect on
24 the day after the date of the completion of all rulemakings
25 required by this subtitle.

1 **SEC. 322. PRESERVATION OF GEOLOGICAL AND GEO-**
2 **PHYSICAL DATA.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “National Geological and Geophysical Data Preservation
5 Program Act of 2003”.

6 (b) **PROGRAM.**—The Secretary shall carry out a Na-
7 tional Geological and Geophysical Data Preservation Pro-
8 gram in accordance with this section—

9 (1) to archive geologic, geophysical, and engi-
10 neering data, maps, well logs, and samples;

11 (2) to provide a national catalog of such archi-
12 val material; and

13 (3) to provide technical and financial assistance
14 related to the archival material.

15 (c) **PLAN.**—Not later than 1 year after the date of
16 enactment of this Act, the Secretary shall submit to the
17 Congress a plan for the implementation of the Program.

18 (d) **DATA ARCHIVE SYSTEM.**—

19 (1) **ESTABLISHMENT.**—The Secretary shall es-
20 tablish, as a component of the Program, a data ar-
21 chive system to provide for the storage, preservation,
22 and archiving of subsurface, surface, geological, geo-
23 physical, and engineering data and samples. The
24 Secretary, in consultation with the Advisory Com-
25 mittee, shall develop guidelines relating to the data

1 archive system, including the types of data and sam-
2 ples to be preserved.

3 (2) SYSTEM COMPONENTS.—The system shall
4 be comprised of State agencies that elect to be part
5 of the system and agencies within the Department
6 of the Interior that maintain geological and geo-
7 physical data and samples that are designated by
8 the Secretary in accordance with this subsection.
9 The Program shall provide for the storage of data
10 and samples through data repositories operated by
11 such agencies.

12 (3) LIMITATION OF DESIGNATION.—The Sec-
13 retary may not designate a State agency as a com-
14 ponent of the data archive system unless that agency
15 is the agency that acts as the geological survey in
16 the State.

17 (4) DATA FROM FEDERAL LAND.—The data ar-
18 chive system shall provide for the archiving of rel-
19 evant subsurface data and samples obtained from
20 Federal land—

21 (A) in the most appropriate repository des-
22 ignated under paragraph (2), with preference
23 being given to archiving data in the State in
24 which the data were collected; and

1 (B) consistent with all applicable law and
2 requirements relating to confidentiality and pro-
3 prietary data.

4 (e) NATIONAL CATALOG.—

5 (1) IN GENERAL.—As soon as practicable after
6 the date of enactment of this Act, the Secretary
7 shall develop and maintain, as a component of the
8 Program, a national catalog that identifies—

9 (A) data and samples available in the data
10 archive system established under subsection (d);

11 (B) the repository for particular material
12 in the system; and

13 (C) the means of accessing the material.

14 (2) AVAILABILITY.—The Secretary shall make
15 the national catalog accessible to the public on the
16 site of the Survey on the Internet, consistent with all
17 applicable requirements related to confidentiality
18 and proprietary data.

19 (f) ADVISORY COMMITTEE.—

20 (1) IN GENERAL.—The Advisory Committee
21 shall advise the Secretary on planning and imple-
22 mentation of the Program.

23 (2) NEW DUTIES.—In addition to its duties
24 under the National Geologic Mapping Act of 1992

1 (43 U.S.C. 31a et seq.), the Advisory Committee
2 shall perform the following duties:

3 (A) Advise the Secretary on developing
4 guidelines and procedures for providing assist-
5 ance for facilities under subsection (g)(1).

6 (B) Review and critique the draft imple-
7 mentation plan prepared by the Secretary under
8 subsection (c).

9 (C) Identify useful studies of data archived
10 under the Program that will advance under-
11 standing of the Nation's energy and mineral re-
12 sources, geologic hazards, and engineering geol-
13 ogy.

14 (D) Review the progress of the Program in
15 archiving significant data and preventing the
16 loss of such data, and the scientific progress of
17 the studies funded under the Program.

18 (E) Include in the annual report to the
19 Secretary required under section 5(b)(3) of the
20 National Geologic Mapping Act of 1992 (43
21 U.S.C. 31d(b)(3)) an evaluation of the progress
22 of the Program toward fulfilling the purposes of
23 the Program under subsection (b).

24 (g) FINANCIAL ASSISTANCE.—

1 (1) ARCHIVE FACILITIES.—Subject to the avail-
2 ability of appropriations, the Secretary shall provide
3 financial assistance to a State agency that is des-
4 ignated under subsection (d)(2) for providing facili-
5 ties to archive energy material.

6 (2) STUDIES.—Subject to the availability of ap-
7 propriations, the Secretary shall provide financial as-
8 sistance to any State agency designated under sub-
9 section (d)(2) for studies and technical assistance
10 activities that enhance understanding, interpreta-
11 tion, and use of materials archived in the data ar-
12 chive system established under subsection (d).

13 (3) FEDERAL SHARE.—The Federal share of
14 the cost of an activity carried out with assistance
15 under this subsection shall be not more than 50 per-
16 cent of the total cost of the activity.

17 (4) PRIVATE CONTRIBUTIONS.—The Secretary
18 shall apply to the non-Federal share of the cost of
19 an activity carried out with assistance under this
20 subsection the value of private contributions of prop-
21 erty and services used for that activity.

22 (h) REPORT.—The Secretary shall include in each re-
23 port under section 8 of the National Geologic Mapping Act
24 of 1992 (43 U.S.C. 31g)—

25 (1) a description of the status of the Program;

1 (2) an evaluation of the progress achieved in
2 developing the Program during the period covered by
3 the report; and

4 (3) any recommendations for legislative or other
5 action the Secretary considers necessary and appro-
6 priate to fulfill the purposes of the Program under
7 subsection (b).

8 (i) MAINTENANCE OF STATE EFFORT.—It is the in-
9 tent of the Congress that the States not use this section
10 as an opportunity to reduce State resources applied to the
11 activities that are the subject of the Program.

12 (j) DEFINITIONS.—In this section:

13 (1) ADVISORY COMMITTEE.—The term “Advi-
14 sory Committee” means the advisory committee es-
15 tablished under section 5 of the National Geologic
16 Mapping Act of 1992 (43 U.S.C. 31d).

17 (2) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior, acting through the Di-
19 rector of the United States Geological Survey.

20 (3) PROGRAM.—The term “Program” means
21 the National Geological and Geophysical Data Pres-
22 ervation Program carried out under this section.

23 (4) SURVEY.—The term “Survey” means the
24 United States Geological Survey.

1 (k) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$30,000,000 for each of fiscal years 2004 through 2008.

4 **SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.**

5 Section 27(d)(1) of the Mineral Leasing Act (30
6 U.S.C. 184(d)(1)) is amended by inserting after “acreage
7 held in special tar sand areas” the following: “, and acre-
8 age under any lease any portion of which has been com-
9 mitted to a federally approved unit or cooperative plan or
10 communitization agreement or for which royalty (includ-
11 ing compensatory royalty or royalty in-kind) was paid in
12 the preceding calendar year,”.

13 **SEC. 324. ASSESSMENT OF DEPENDENCE OF STATE OF HA-**
14 **WAI ON OIL.**

15 (a) ASSESSMENT.—The Secretary of Energy shall as-
16 sess the economic implication of the dependence of the
17 State of Hawaii on oil as the principal source of energy
18 for the State, including—

19 (1) the short- and long-term prospects for crude
20 oil supply disruption and price volatility and poten-
21 tial impacts on the economy of Hawaii;

22 (2) the economic relationship between oil-fired
23 generation of electricity from residual fuel and re-
24 fined petroleum products consumed for ground, ma-
25 rine, and air transportation;

1 (3) the technical and economic feasibility of in-
2 creasing the contribution of renewable energy re-
3 sources for generation of electricity, on an island-by-
4 island basis, including—

5 (A) siting and facility configuration;

6 (B) environmental, operational, and safety
7 considerations;

8 (C) the availability of technology;

9 (D) effects on the utility system including
10 reliability;

11 (E) infrastructure and transport require-
12 ments;

13 (F) community support; and

14 (G) other factors affecting the economic
15 impact of such an increase and any effect on
16 the economic relationship described in para-
17 graph (2);

18 (4) the technical and economic feasibility of
19 using liquefied natural gas to displace residual fuel
20 oil for electric generation, including neighbor island
21 opportunities, and the effect of the displacement on
22 the economic relationship described in paragraph
23 (2), including—

24 (A) the availability of supply;

1 (B) siting and facility configuration for on-
2 shore and offshore liquefied natural gas receiv-
3 ing terminals;

4 (C) the factors described in subparagraphs
5 (B) through (F) of paragraph (3); and

6 (D) other economic factors;

7 (5) the technical and economic feasibility of
8 using renewable energy sources (including hydrogen)
9 for ground, marine, and air transportation energy
10 applications to displace the use of refined petroleum
11 products, on an island-by-island basis, and the eco-
12 nomic impact of the displacement on the relationship
13 described in (2); and

14 (6) an island-by-island approach to—

15 (A) the development of hydrogen from re-
16 newable resources; and

17 (B) the application of hydrogen to the en-
18 ergy needs of Hawaii

19 (b) CONTRACTING AUTHORITY.—The Secretary of
20 Energy may carry out the assessment under subsection
21 (a) directly or, in whole or in part, through 1 or more
22 contracts with qualified public or private entities.

23 (c) REPORT.—Not later than 300 days after the date
24 of enactment of this Act, the Secretary of Energy shall
25 prepare, in consultation with agencies of the State of Ha-

1 waii and other stakeholders, as appropriate, and submit
2 to the Congress, a report detailing the findings, conclu-
3 sions, and recommendations resulting from the assess-
4 ment.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as are nec-
7 essary to carry out this section.

8 **SEC. 325. DEADLINE FOR DECISION ON APPEALS OF CON-**
9 **SISTENCY DETERMINATION UNDER THE**
10 **COASTAL ZONE MANAGEMENT ACT OF 1972.**

11 (a) IN GENERAL.—Section 319 of the Coastal Zone
12 Management Act of 1972 (16 U.S.C. 1465) is amended
13 to read as follows:

14 “APPEALS TO THE SECRETARY

15 “SEC. 319. (a) NOTICE.—The Secretary shall publish
16 an initial notice in the Federal Register within 30 days
17 after the date of the filing of any appeal to the Secretary
18 of a consistency determination under section 307.

19 “(b) CLOSURE OF RECORD.—

20 “(1) IN GENERAL.—Not later than the end of
21 the 120-day period beginning on the date of publica-
22 tion of an initial notice under subsection (a), the
23 Secretary shall receive no more filings on the appeal
24 and the administrative record regarding the appeal
25 shall be closed.

1 “(2) NOTICE.—Upon the closure of the admin-
2 istrative record, the Secretary shall immediately
3 publish a notice that the administrative record has
4 been closed.

5 “(c) DEADLINE FOR DECISION.—The Secretary shall
6 issue a decision in any appeal filed under section 307 not
7 later than 120 days after the closure of the administrative
8 record.

9 “(d) APPLICATION.—This section applies to appeals
10 initiated by the Secretary and appeals filed by an appli-
11 cant.”.

12 (b) APPLICATION.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendment made by subsection (a)
15 shall apply with respect to any appeal initiated or
16 filed before, on, or after the date of enactment of
17 this Act.

18 (2) LIMITATION.—Subsection (a) of section 319
19 of the Coastal Zone Management Act of 1972 (as
20 amended by subsection (a)) shall not apply with re-
21 spect to an appeal initiated or filed before the date
22 of enactment of this Act.

23 (c) CLOSURE OF RECORD FOR APPEAL FILED BE-
24 FORE DATE OF ENACTMENT.—Notwithstanding section
25 319(b)(1) of the Coastal Zone Management Act of 1972

1 (as amended by this section), in the case of an appeal of
2 a consistency determination under section 307 of that Act
3 initiated or filed before the date of enactment of this Act,
4 the Secretary of Commerce shall receive no more filings
5 on the appeal and the administrative record regarding the
6 appeal shall be closed not later than 120 days after the
7 date of enactment of this Act.

8 **SEC. 326. REIMBURSEMENT FOR COSTS OF NEPA ANAL-**
9 **YSES, DOCUMENTATION, AND STUDIES.**

10 (a) IN GENERAL.—The Mineral Leasing Act is
11 amended by inserting after section 37 (30 U.S.C. 193)
12 the following:

13 “REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES,
14 DOCUMENTATION, AND STUDIES

15 “SEC. 38. (a) IN GENERAL.—The Secretary of the
16 Interior may reimburse a person that is a lessee, operator,
17 operating rights owner, or applicant for any lease under
18 this Act for reasonable amounts paid by the person for
19 preparation for the Secretary by a contractor or other per-
20 son selected by the Secretary of any project-level analysis,
21 documentation, or related study required pursuant to the
22 National Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.) with respect to the lease.

24 “(b) CONDITIONS.—The Secretary may provide reim-
25 bursement under subsection (b) only if—

1 “(1) adequate funding to enable the Secretary
2 to timely prepare the analysis, documentation, or re-
3 lated study is not appropriated;

4 “(2) the person paid the costs voluntarily;

5 “(3) the person maintains records of its costs
6 in accordance with regulations promulgated by the
7 Secretary;

8 “(4) the reimbursement is in the form of a re-
9 duction in the Federal share of the royalty required
10 to be paid for the lease for which the analysis, docu-
11 mentation, or related study is conducted, and is
12 agreed to by the Secretary and the person reim-
13 bursed prior to commencing the analysis, docu-
14 mentation, or related study; and

15 “(5) the agreement required under paragraph
16 (4) contains provisions—

17 “(A) reducing royalties owed on lease pro-
18 duction based on market prices;

19 “(B) stipulating an automatic termination
20 of the royalty reduction upon recovery of docu-
21 mented costs; and

22 “(C) providing a process by which the les-
23 see may seek reimbursement for circumstances
24 in which production from the specified lease is
25 not possible.”.

1 (b) APPLICATION.—The amendment made by this
2 section shall apply with respect to an analysis, documenta-
3 tion, or a related study conducted on or after the date
4 of enactment of this Act for any lease entered into before,
5 on, or after the date of enactment of this Act.

6 (c) DEADLINE FOR REGULATIONS.—The Secretary
7 shall issue regulations implementing the amendment made
8 by this section by not later than 1 year after the date
9 of enactment of this Act.

10 **SEC. 327. HYDRAULIC FRACTURING.**

11 Paragraph (1) of section 1421(d) of the Safe Drink-
12 ing Water Act (42 U.S.C. 300h(d)) is amended to read
13 as follows:

14 “(1) UNDERGROUND INJECTION.—The term
15 ‘underground injection’—

16 “(A) means the subsurface emplacement of
17 fluids by well injection; and

18 “(B) excludes—

19 “(i) the underground injection of nat-
20 ural gas for purposes of storage; and

21 “(ii) the underground injection of
22 fluids or propping agents pursuant to hy-
23 draulic fracturing operations related to oil
24 or gas production activities.”.

1 **SEC. 328. OIL AND GAS EXPLORATION AND PRODUCTION**

2 **DEFINED.**

3 Section 502 of the Federal Water Pollution Control
4 Act (33 U.S.C. 1362) is amended by adding at the end
5 the following:

6 “(24) OIL AND GAS EXPLORATION AND PRO-
7 DUCTION.—The term ‘oil and gas exploration and
8 production’ means all field operations necessary for
9 both exploration and production of oil and gas, in-
10 cluding activities necessary to prepare a site for
11 drilling and for the movement and placement of
12 drilling equipment, whether or not those activities
13 may be considered to be construction activities.”.

14 **SEC. 329. STORAGE ON THE OUTER CONTINENTAL SHELF.**

15 Section 5(a)(5) of the Outer Continental Shelf Lands
16 Act (43 U.S.C. 1334(a)(5)) is amended by inserting “from
17 any source” after “oil and gas”.

18 **SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUCC-**
19 **TION OR OFFSHORE MINERAL DEVELOP-**
20 **MENT PROJECTS.**

21 (a) AGENCY OF RECORD, PIPELINE CONSTRUCTION
22 PROJECTS.—Any Federal administrative agency pro-
23 ceeding that is an appeal or review related to Federal au-
24 thority for an interstate natural gas pipeline construction
25 project, including construction of natural gas storage and
26 liquefied natural gas facilities, shall use as its exclusive

1 record for all purposes the record compiled by the Federal
2 Energy Regulatory Commission pursuant to the Commis-
3 sion's proceeding under sections 3 and 7 of the Natural
4 Gas Act (15 U.S.C. 717b, 717f).

5 (b) SENSE OF CONGRESS.—It is the sense of the
6 Congress that all Federal and State agencies with jurisdic-
7 tion over interstate natural gas pipeline construction ac-
8 tivities should coordinate their proceedings within the
9 timeframes established by the Federal Energy Regulatory
10 Commission when the Commission is acting under sections
11 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f)
12 to determine whether a certificate of public convenience
13 and necessity should be issued for a proposed interstate
14 natural gas pipeline.

15 (c) AGENCY OF RECORD, OFFSHORE MINERAL DE-
16 VELOPMENT PROJECTS.—Any Federal administrative
17 agency proceeding that is an appeal or review related to
18 Federal authority for the permitting, approval, or other
19 authorization of projects to explore, develop, or produce
20 mineral resources underlying the outer Continental Shelf
21 shall use as its exclusive record for all purposes (except
22 for the filing of pleadings) the record compiled by the rel-
23 evant Federal permitting agency.

1 **SEC. 331. BILATERAL INTERNATIONAL OIL SUPPLY AGREE-**
2 **MENTS.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, the President may export oil to, or secure oil
5 for, any country pursuant to a bilateral international oil
6 supply agreement entered into by the United States with
7 the country before June 25, 1979, or to any country pur-
8 suant to the International Emergency Oil Sharing Plan
9 of the International Energy Agency.

10 (b) MEMORANDUM OF AGREEMENT.—The following
11 agreements are deemed to have entered into force by oper-
12 ation of law and are deemed to have no termination date:

13 (1) The agreement entitled “Agreement amend-
14 ing and extending the memorandum of agreement of
15 June 22, 1979”, entered into force November 13,
16 1994 (TIAS 12580).

17 (2) The agreement entitled “Agreement amend-
18 ing the contingency implementing arrangements of
19 October 17, 1980”, entered into force June 27,
20 1995 (TIAS 12670).

21 **SEC. 332. INCREASED PENALTIES.**

22 Section 21 of the Natural Gas Act (15 U.S.C. 717t)
23 is amended—

24 (1) in subsection (a)—

25 (A) by striking “\$5,000” and inserting
26 “\$1,000,000”; and

1 (B) by striking “two years” and inserting
2 “5 years”; and
3 (2) in subsection (b), by striking “\$500” and
4 inserting “\$50,000”.

5 **SEC. 333. GAS MARKET TRANSPARENCY.**

6 **【TO BE SUPPLIED.】**

7 **SEC. 334. COMPREHENSIVE INVENTORY OF OCS OIL AND**
8 **NATURAL GAS RESOURCES.**

9 (a) IN GENERAL.—The Secretary shall conduct an
10 inventory and analysis of oil and natural gas resources be-
11 neath all of the waters of the United States outer Conti-
12 nental Shelf (referred to in this section as the “OCS”).
13 The inventory and analysis shall—

14 (1) use available data on oil and gas resources
15 in areas offshore of Mexico and Canada that will
16 provide information on trends of oil and gas accu-
17 mulation in areas of the OCS;

18 (2) use any available technology, except drilling,
19 but including 3-dimensional seismic technology to
20 obtain accurate resources estimates;

21 (3) analyze how resource estimates in OCS
22 areas have changed over time in regard to gathering
23 geological and geophysical data, initial exploration,
24 or full field development, including areas such as the
25 deepwater and subsalt areas in the Gulf of Mexico;

1 (4) estimate the effect that understated oil and
2 gas resource inventories have on domestic energy in-
3 vestments; and

4 (5) identify and explain how legislative, regu-
5 latory, and administrative programs or processes re-
6 strict or impede the development of identified re-
7 sources and the extent to which the programs or
8 processes affect domestic supply, such as moratoria,
9 lease terms and conditions, operational stipulations
10 and requirements, approval delays by the Federal
11 Government and coastal states, and local zoning re-
12 strictions for onshore processing facilities and pipe-
13 line landings.

14 (b) REPORTS.—Not later than 2 years after the date
15 of enactment of this Act, the Secretary shall submit to
16 the Congress a report on the inventory of estimates and
17 the analysis of restrictions or impediments, together with
18 any recommendations. The report shall be publicly avail-
19 able and shall be updated at least every 5 years.

20 **SEC. 335. ONSHORE RESERVES PROGRAM.**

21 (a) IN GENERAL.—The Secretary of Energy shall
22 carry out a program to demonstrate and encourage the
23 use of technologies for the recovery of oil and natural gas
24 reserves from oil and natural gas reservoirs with 1 or more
25 of the following characteristics:

1 (1) Complex geology involving rapid changes in
2 the type and quality of the oil or gas reservoir across
3 the reservoir.

4 (2) Low reservoir pressure.

5 (3) Unconventional natural gas reservoirs in
6 coalbeds, deep reservoirs, tight sands or shales.

7 (4) Unconventional oil reservoirs in tar sands
8 and oil shales.

9 (b) FOCUS AREAS.—The program under this section
10 may focus on technologies including—

11 (1) innovative production techniques, including
12 horizontal drilling, fracture detection methodologies,
13 and 3-dimensional and multi-component seismic
14 techniques;

15 (2) compression technologies (including field-
16 wide compression) to access pipelines for low volume,
17 low pressure natural gas wells; and

18 (3) enhanced recovery techniques.

19 (c) LIMITATION ON LOCATION OF ACTIVITIES.—Ac-
20 tivities under this section shall be carried out only—

21 (1) in—

22 (A) areas onshore in the United States on
23 public land administered by the Secretary of the
24 Interior available for oil and gas leasing, where

1 consistent with applicable law and land use
2 plans; and

3 (B) areas onshore in the United States on
4 State, or other governmental or private land,
5 subject to applicable law; and

6 (2) with the approval of the appropriate Fed-
7 eral, State, or other governmental land management
8 agency or private land owner.

9 (d) ROLE OF THE SECRETARY.—The Secretary of
10 Energy shall have ultimate responsibility for, and over-
11 sight of, all aspects of the program under this section,
12 which may only be delegated to the Assistant Secretary
13 for Fossil Energy.

14 (e) LOANS.—

15 (1) IN GENERAL.—The Secretary of Energy
16 shall make loans to carry out activities under this
17 section, to the extent amounts are available to carry
18 out this subsection.

19 (2) PROPOSALS.—

20 (A) SOLICITATION.—The Secretary of En-
21 ergy shall solicit proposals for loans under this
22 subsection in such manner and at such time as
23 the Secretary of Energy may prescribe.

24 (B) CONTENTS.—Each proposal submitted
25 shall include—

- 1 (i) an estimate of the potential
- 2 unproven reserves in the reservoir;
- 3 (ii) an estimate of the potential for
- 4 success of the project;
- 5 (iii) a detailed project plan;
- 6 (iv) a detailed analysis of the costs as-
- 7 sociated with the project;
- 8 (v) a timeframe for project comple-
- 9 tion; and
- 10 (vi) such other matters as the Sec-
- 11 retary of Energy considers appropriate.

12 (3) REVIEW.—The Secretary of Energy shall
13 carry out the programs under this section—

14 (A) consistent with the generally applicable
15 Federal laws (including regulations) governing
16 financial assistance, contracts, or other agree-
17 ments; and

18 (B) through a competitive process, which
19 shall include a review by the Advisory Com-
20 mittee established under subsection (f).

21 (f) ADVISORY COMMITTEE.—

22 (1) ESTABLISHMENT.—Not later than 270 days
23 after the date of enactment of this Act, the Sec-
24 retary of Energy shall establish an Advisory Com-
25 mittee. The Advisory Committee shall be comprised

1 of members appointed by the Secretary of Energy,
2 including—

3 (A) individuals broadly representative of oil
4 and natural gas production; and

5 (B) no individuals who are Federal em-
6 ployees.

7 (2) DUTIES.—The Advisory Committee shall
8 advise the Secretary of Energy on the development
9 and implementation of activities under this section,
10 including recommendations on funding loans for spe-
11 cific projects.

12 (3) COMPENSATION.—A member of the Advi-
13 sory Committee shall serve without compensation
14 but shall receive travel expenses, including per diem
15 in lieu of subsistence, in accordance with applicable
16 provisions under subchapter 1 of chapter 57 of title
17 5, United States Code.

18 (g) LIMITS ON PARTICIPATION.—A person shall be
19 eligible to receive a loan under this subsection if the Sec-
20 retary of Energy determines—

21 (1) that the person's participation in the pro-
22 gram under this subsection is in the economic inter-
23 est of the United States; and

24 (2) that the person is a United States-owned
25 entity organized under the laws of the United States

1 with production levels of less than 1,000 barrels per
2 day of oil equivalent.

3 (h) PUBLIC AVAILABILITY OF PROJECT RESULTS
4 AND METHODOLOGIES.—The results of any project car-
5 ried out under this section and the methodologies used to
6 achieve those results shall be made public and shall not
7 be proprietary.

8 (i) REVOLVING LOAN FUND.—The Secretary of En-
9 ergy shall establish a revolving loan fund with funds made
10 available under subsection (j). The fund shall be estab-
11 lished, maintained, and credited with repayments, and the
12 fund balance shall be available until September 30, 2019,
13 for providing financial assistance for the following pur-
14 poses:

15 (1) To provide loans under subsection (e) on
16 the conditions that—

17 (A) the loans are made with such terms
18 and conditions as are agreed to by the Sec-
19 retary of Energy and the applicant; and

20 (B) the fund will be credited with all pay-
21 ments of principal and interest on all loans.

22 (2) To earn interest on fund accounts.

23 (3) To pay for reasonable costs of admin-
24 istering the fund and conducting activities under
25 this section, except that such amounts shall not ex-

1 ceed 4 percent of the annual appropriations to the
2 fund or 4 percent of the amount in the fund, which-
3 ever is greater.

4 (j) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to carry out this section
6 \$100,000,000 for each of fiscal years 2005 through 2009,
7 to remain available until expended.

8 (k) SUNSET.—The authority provided by this section
9 terminates on September 30, 2019.

10 **Subtitle C—Access to Federal Land**

11 **SEC. 341. OFFICE OF FEDERAL ENERGY PROJECT COORDI-** 12 **NATION.**

13 (a) ESTABLISHMENT.—The President shall establish
14 the Office of Federal Energy Project Coordination (re-
15 ferred to in this section as the “Office”) within the Execu-
16 tive Office of the President in the same manner and with
17 the same mission as the White House Energy Projects
18 Task Force established by Executive Order No. 13212 (42
19 U.S.C. 13201 note).

20 (b) STAFFING.—The Office shall be staffed by func-
21 tional experts from relevant Federal agencies on a non-
22 reimbursable basis to carry out the mission of the Office.

23 (c) REPORT.—The Office shall transmit an annual
24 report to the Congress that describes the activities put in
25 place to coordinate and expedite Federal decisions on en-

1 ergy projects. The report shall list accomplishments in im-
2 proving the Federal decisionmaking process and shall in-
3 clude any additional recommendations or systemic changes
4 needed to establish a more effective and efficient Federal
5 permitting process.

6 **SEC. 342. FEDERAL ONSHORE OIL AND GAS LEASING AND**
7 **PERMITTING PRACTICES.**

8 (a) REVIEW OF ONSHORE OIL AND GAS LEASING
9 PRACTICES.—

10 (1) IN GENERAL.—The Secretary of the Inte-
11 rior, in consultation with the Secretary of Agri-
12 culture with respect to National Forest System lands
13 under the jurisdiction of the Department of Agri-
14 culture, shall perform an internal review of current
15 Federal onshore oil and gas leasing and permitting
16 practices.

17 (2) INCLUSIONS.—The review shall include the
18 process for—

19 (A) accepting or rejecting offers to lease;

20 (B) administrative appeals of decisions or
21 orders of officers or employees of the Bureau of
22 Land Management with respect to a Federal oil
23 or gas lease;

24 (C) considering surface use plans of oper-
25 ation, including the timeframes in which the

1 plans are considered, and any recommendations
2 for improving and expediting the process; and
3 (D) identifying stipulations to address site-
4 specific concerns and conditions, including those
5 stipulations relating to the environment and re-
6 source use conflicts.

7 (b) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, the Secretary of the Interior and
9 the Secretary of Agriculture shall transmit a report to the
10 Congress that describes—

11 (1) actions taken under section 3 of Executive
12 Order No. 13212 (42 U.S.C. 13201 note); and

13 (2) actions taken or any plans to improve the
14 Federal onshore oil and gas leasing program.

15 **SEC. 343. MANAGEMENT OF FEDERAL OIL AND GAS LEAS-**
16 **ING PROGRAMS.**

17 (a) TIMELY ACTION ON LEASES AND PERMITS.—To
18 ensure timely action on oil and gas leases and applications
19 for permits to drill on land otherwise available for leasing,
20 the Secretary of the Interior (in this section referred to
21 as the “Secretary”) shall—

22 (1) ensure expeditious compliance with section
23 102(2)(C) of the National Environmental Policy Act
24 of 1969 (42 U.S.C. 4332(2)(C));

1 (2) improve consultation and coordination with
2 the States and the public; and

3 (3) improve the collection, storage, and retrieval
4 of information relating to the leasing activities.

5 (b) BEST MANAGEMENT PRACTICES.—

6 (1) IN GENERAL.—Not later than 18 months
7 after the date of enactment of this Act, the Sec-
8 retary shall develop and implement best manage-
9 ment practices to—

10 (A) improve the administration of the on-
11 shore oil and gas leasing program under the
12 Mineral Leasing Act (30 U.S.C. 181 et seq.);
13 and

14 (B) ensure timely action on oil and gas
15 leases and applications for permits to drill on
16 lands otherwise available for leasing.

17 (2) CONSIDERATIONS.—In developing the best
18 management practices under paragraph (1), the Sec-
19 retary shall consider any recommendations from the
20 review under section 342.

21 (3) REGULATIONS.—Not later than 180 days
22 after the development of best management practices
23 under paragraph (1), the Secretary shall publish, for
24 public comment, proposed regulations that set forth
25 specific timeframes for processing leases and appli-

1 cations in accordance with the practices, including
2 deadlines for—

3 (A) approving or disapproving resource
4 management plans and related documents, lease
5 applications, and surface use plans; and

6 (B) related administrative appeals.

7 (c) IMPROVED ENFORCEMENT.—The Secretary shall
8 improve inspection and enforcement of oil and gas activi-
9 ties, including enforcement of terms and conditions in per-
10 mits to drill.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
12 tion to amounts authorized to be appropriated to carry
13 out section 17 of the Mineral Leasing Act (30 U.S.C.
14 226), there are authorized to be appropriated to the Sec-
15 retary for each of fiscal years 2004 through 2007—

16 (1) \$40,000,000 to carry out subsections (a)
17 and (b); and

18 (2) \$20,000,000 to carry out subsection (c).

19 **SEC. 344. CONSULTATION REGARDING OIL AND GAS LEAS-**
20 **ING ON PUBLIC LAND.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of enactment of this Act, the Secretary of the Interior
23 and the Secretary of Agriculture shall enter into a memo-
24 randum of understanding regarding oil and gas leasing
25 on—

1 (1) public lands under the jurisdiction of the
2 Secretary of the Interior; and

3 (2) National Forest System lands under the ju-
4 risdiction of the Secretary of Agriculture.

5 (b) CONTENTS.—The memorandum of understanding
6 shall include provisions that—

7 (1) establish administrative procedures and
8 lines of authority that ensure timely processing of oil
9 and gas lease applications, surface use plans of oper-
10 ation, and applications for permits to drill, including
11 steps for processing surface use plans and applica-
12 tions for permits to drill within 30 days after receipt
13 by the Secretary concerned;

14 (2) eliminate duplication of effort by providing
15 for coordination of planning and environmental com-
16 pliance efforts; and

17 (3) ensure that lease stipulations are—

18 (A) applied consistently;

19 (B) coordinated between agencies; and

20 (C) only as restrictive as necessary to pro-
21 tect the resource for which the stipulations are
22 applied.

23 (c) DATA RETRIEVAL SYSTEM.—

24 (1) IN GENERAL.—Not later than 1 year after
25 the date of enactment of this Act, the Secretary of

1 the Interior and the Secretary of Agriculture shall
2 establish a joint data retrieval system that is capable
3 of—

4 (A) tracking applications and formal re-
5 quests made in accordance with procedures of
6 the Federal onshore oil and gas leasing pro-
7 gram; and

8 (B) providing information regarding the
9 status of the applications and requests within
10 the Department of the Interior and the Depart-
11 ment of Agriculture.

12 (2) RESOURCE MAPPING.—Not later than 2
13 years after the date of enactment of this Act, the
14 Secretary of the Interior and the Secretary of Agri-
15 culture shall establish a joint Geographic Informa-
16 tion System mapping system for use in—

17 (A) tracking surface resource values to aid
18 in resource management; and

19 (B) processing surface use plans of oper-
20 ation and applications for permits to drill.

21 **SEC. 345. USGS ESTIMATES OF OIL AND GAS RESOURCES**
22 **UNDERLYING ONSHORE FEDERAL LAND.**

23 Section 604 of the Energy Act of 2000 (42 U.S.C.
24 6217) is amended—

25 (1) in subsection (a)—

1 (A) in paragraph (1)—

2 (i) by striking “reserve”; and

3 (ii) by striking “and” after the semi-
4 colon; and

5 (B) by striking paragraph (2) and insert-
6 ing the following:

7 “(2) the extent and nature of any restrictions
8 or impediments to the development of the resources,
9 including—

10 “(A) impediments to the timely granting of
11 leases;

12 “(B) post-lease restrictions, impediments,
13 or delays on development for conditions of ap-
14 proval, applications for permits to drill, or proc-
15 essing of environmental permits; and

16 “(C) permits or restrictions associated with
17 transporting the resources for entry into com-
18 merce; and

19 “(3) the quantity of resources not produced or
20 introduced into commerce because of the restric-
21 tions.”;

22 (2) in subsection (b)—

23 (A) by striking “reserve” and inserting
24 “resource”; and

1 (B) by striking “publically” and inserting
2 “publicly”; and

3 (3) by striking subsection (d) and inserting the
4 following:

5 “(d) ASSESSMENTS.—Using the inventory, the Sec-
6 retary of Energy shall make periodic assessments of eco-
7 nomically recoverable resources accounting for a range of
8 parameters such as current costs, commodity prices, tech-
9 nology, and regulations.”.

10 **SEC. 346. COMPLIANCE WITH EXECUTIVE ORDER 13211; AC-**
11 **TIONS CONCERNING REGULATIONS THAT**
12 **SIGNIFICANTLY AFFECT ENERGY SUPPLY,**
13 **DISTRIBUTION, OR USE.**

14 (a) REQUIREMENT.—The head of each Federal agen-
15 cy shall require that before the Federal agency takes any
16 action that could have a significant adverse effect on the
17 supply of domestic energy resources from Federal public
18 land, the Federal agency taking the action shall comply
19 with Executive Order No. 13211 (42 U.S.C. 13201 note).

20 (b) GUIDANCE.—Not later than 180 days after the
21 date of enactment of this Act, the Secretary of Energy
22 shall publish guidance for purposes of this section describ-
23 ing what constitutes a significant adverse effect on the
24 supply of domestic energy resources under Executive
25 Order No. 13211 (42 U.S.C. 13201 note).

1 (c) MEMORANDUM OF UNDERSTANDING.—The Sec-
2 retary of the Interior and the Secretary of Agriculture
3 shall include in the memorandum of understanding under
4 section 344 provisions for implementing subsection (a) of
5 this section.

6 **SEC. 347. PILOT PROGRAM ON ROCKY MOUNTAIN ENERGY**
7 **COUNCIL.**

8 The Task Force established by Executive Order No.
9 13212 (42 U.S.C. 13201 note) shall—

10 (1) carry out the Rocky Mountain Energy
11 Council pilot project; and

12 (2) not later than 3 years after the date of en-
13 actment of this Act, transmit to the Congress a re-
14 port on the progress the Task Force has made in ac-
15 complishing the following goals:

16 (A) Reducing the conflict, uncertainty, and
17 time involved in making decisions on energy re-
18 source management in the Intermountain West.

19 (B) Establishing a mechanism to provide
20 for the coordination of Federal and State policy
21 on—

22 (i) the development of regional energy
23 resources; and

24 (ii) the transmission of regional en-
25 ergy resources to markets.

1 (C) Institutionalizing early collaboration
2 and participation of all parties involved in re-
3 gional decisions on environmental, economic,
4 and energy issues relating to the exploration,
5 development, and production of energy re-
6 sources.

7 (D) Developing a long-term and regional
8 perspective on how best to manage the energy
9 resources in the Intermountain West.

10 **SEC. 348. PILOT PROJECT TO IMPROVE FEDERAL PERMIT**
11 **COORDINATION.**

12 (a) ESTABLISHMENT.—The Secretary of the Interior
13 (in this section referred to as the “Secretary”) shall estab-
14 lish a Federal Permit Streamlining Pilot Project (in this
15 section referred to as the “Pilot Project”).

16 (b) MEMORANDUM OF UNDERSTANDING.—

17 (1) IN GENERAL.—Not later than 90 days after
18 the date of enactment of this Act, the Secretary
19 shall enter into a memorandum of understanding
20 with the Secretary of Agriculture, the Administrator
21 of the Environmental Protection Agency, and the
22 Chief of Engineers of the Army Corps of Engineers
23 for purposes of this section.

24 (2) STATE PARTICIPATION.—The Secretary
25 may request that the Governors of Wyoming, Mon-

1 tana, Colorado, Utah, and New Mexico be signato-
2 ries to the memorandum of understanding.

3 (c) DESIGNATION OF QUALIFIED STAFF.—

4 (1) IN GENERAL.—Not later than 30 days after
5 the date of the signing of the memorandum of un-
6 derstanding under subsection (b), all Federal signa-
7 tory parties shall assign to each of the field offices
8 identified in subsection (d), on a nonreimbursable
9 basis, an employee who has expertise in the regu-
10 latory issues relating to the office in which the em-
11 ployee is employed, including, as applicable, par-
12 ticular expertise in—

13 (A) the consultations and the preparation
14 of biological opinions under section 7 of the En-
15 dangered Species Act of 1973 (16 U.S.C.
16 1536);

17 (B) permits under section 404 of Federal
18 Water Pollution Control Act (33 U.S.C. 1344);

19 (C) regulatory matters under the Clean Air
20 Act (42 U.S.C. 7401 et seq.);

21 (D) planning under the National Forest
22 Management Act of 1976 (16 U.S.C. 472a et
23 seq.); and

1 (E) the preparation of analyses under the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.).

4 (2) DUTIES.—Each employee assigned under
5 paragraph (1) shall—

6 (A) not later than 90 days after the date
7 of assignment, report to the Bureau of Land
8 Management Field Managers in the office to
9 which the employee is assigned;

10 (B) be responsible for all issues relating to
11 the jurisdiction of the home office or agency of
12 the employee; and

13 (C) participate as part of the team of per-
14 sonnel working on proposed energy projects,
15 planning, and environmental analyses.

16 (d) FIELD OFFICES.—The following Bureau of Land
17 Management Field Offices shall serve as the Pilot Project
18 offices:

19 (1) Rawlins, Wyoming.

20 (2) Buffalo, Wyoming.

21 (3) Miles City, Montana

22 (4) Farmington, New Mexico.

23 (5) Carlsbad, New Mexico.

24 (6) Glenwood Springs, Colorado.

25 (7) Vernal, Utah.

1 (e) REPORTS.—Not later than 3 years after the date
2 of enactment of this Act, the Secretary shall transmit to
3 the Congress a report that—

4 (1) outlines the results of the Pilot Project to
5 date; and

6 (2) makes a recommendation to the President
7 regarding whether the Pilot Project should be imple-
8 mented throughout the United States.

9 (f) ADDITIONAL PERSONNEL.—The Secretary shall
10 assign to each field office identified in subsection (d) any
11 additional personnel that are necessary to ensure the ef-
12 fective implementation of—

13 (1) the Pilot Project; and

14 (2) other programs administered by the field of-
15 fices, including inspection and enforcement relating
16 to energy development on Federal land, in accord-
17 ance with the multiple use mandate of the Federal
18 Land Policy and Management Act of 1976 (43
19 U.S.C. 1701 et seq).

20 (g) SAVINGS PROVISION.—Nothing in this section
21 affects—

22 (1) the operation of any Federal or State law;
23 or

1 (2) any delegation of authority made by the
2 head of a Federal agency whose employees are par-
3 ticipating in the Pilot Project.

4 **SEC. 349. DEADLINE FOR CONSIDERATION OF APPLICA-**
5 **TIONS FOR PERMITS.**

6 Section 17 of the Mineral Leasing Act (30 U.S.C.
7 226) is amended by adding at the end the following:

8 “(p) DEADLINES FOR CONSIDERATION OF APPLICA-
9 TIONS FOR PERMITS.—

10 “(1) IN GENERAL.—Not later than 10 days
11 after the date on which the Secretary receives an ap-
12 plication for any permit to drill, the Secretary
13 shall—

14 “(A) notify the applicant that the applica-
15 tion is complete; or

16 “(B) notify the applicant that information
17 is missing and specify any information that is
18 required to be submitted for the application to
19 be complete.

20 “(2) ISSUANCE OR DEFERRAL.—Not later than
21 30 days after the applicant for a permit has sub-
22 mitted a complete application, the Secretary shall—

23 “(A) issue the permit; or

24 “(B)(i) defer decision on the permit; and

1 “(ii) provide to the applicant a notice that
2 specifies any steps that the applicant could take
3 for the permit to be issued.

4 “(3) REQUIREMENTS FOR DEFERRED APPLICA-
5 TIONS.—

6 “(A) IN GENERAL.—If the Secretary pro-
7 vides notice under paragraph (2)(B)(ii), the ap-
8 plicant shall have a period of 2 years from the
9 date of receipt of the notice in which to com-
10 plete all requirements specified by the Sec-
11 retary, including providing information needed
12 for compliance with the National Environmental
13 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

14 “(B) ISSUANCE OF PERMIT.—If the appli-
15 cant completes the requirements within the pe-
16 riod specified in subparagraph (A), the Sec-
17 retary shall issue the permit not later than 10
18 days after the date of completion of the require-
19 ments.

20 “(C) DENIAL OF PERMIT.—If the appli-
21 cant does not complete the requirements within
22 the period specified in subparagraph (A), the
23 Secretary shall deny the permit.

24 “(q) REPORT.—On a quarterly basis, each field office
25 of the Bureau of Land Management and the Forest Serv-

1 ice shall transmit to the Secretary of the Interior or the
2 Secretary of Agriculture, respectively, a report that—

3 “(1) specifies the number of applications for
4 permits to drill received by the field office in the pe-
5 riod covered by the report; and

6 “(2) describes how each of the applications was
7 disposed of by the field office.”.

8 **SEC. 350. CLARIFICATION OF FAIR MARKET RENTAL VALUE**
9 **DETERMINATIONS FOR PUBLIC LAND AND**
10 **FOREST SERVICE RIGHTS-OF-WAY.**

11 (a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL
12 LAND POLICY AND MANAGEMENT ACT OF 1976.—Section
13 504 of the Federal Land Policy and Management Act of
14 1976 (43 U.S.C. 1764) is amended by adding at the end
15 the following:

16 “(k) DETERMINATION OF FAIR MARKET VALUE OF
17 LINEAR RIGHTS-OF-WAY.—

18 “(1) IN GENERAL.—Effective beginning on the
19 date of the issuance of the rules required by para-
20 graph (2), for purposes of subsection (g), the Sec-
21 retary concerned shall determine the fair market
22 value for the use of land encumbered by a linear
23 right-of-way granted, issued, or renewed under this
24 title using the valuation method described in para-
25 graphs (2), (3), and (4).

1 “(2) REVISIONS.—Not later than 1 year after
2 the date of enactment of this subsection—

3 “(A) the Secretary of the Interior shall
4 amend section 2803.1–2 of title 43, Code of
5 Federal Regulations, as in effect on the date of
6 enactment of this subsection, to revise the per
7 acre rental fee zone value schedule by State,
8 county, and type of linear right-of-way use to
9 reflect current values of land in each zone; and

10 “(B) the Secretary of Agriculture shall
11 make the same revision for linear rights-of-way
12 granted, issued, or renewed under this title on
13 National Forest System land.

14 “(3) UPDATES.—The Secretary concerned shall
15 annually update the schedule revised under para-
16 graph (2) by multiplying the current year’s rental
17 per acre by the annual change, second quarter to
18 second quarter (June 30 to June 30) in the Gross
19 National Product Implicit Price Deflator Index pub-
20 lished in the Survey of Current Business of the De-
21 partment of Commerce, Bureau of Economic Anal-
22 ysis.

23 “(4) REVIEW.—If the cumulative change in the
24 index referred to in paragraph (3) exceeds 30 per-
25 cent, or the change in the 3-year average of the 1-

1 year Treasury interest rate used to determine per
2 acre rental fee zone values exceeds plus or minus 50
3 percent, the Secretary concerned shall conduct a re-
4 view of the zones and rental per acre figures to de-
5 termine whether the value of Federal land has dif-
6 fered sufficiently from the index referred to in para-
7 graph (3) to warrant a revision in the base zones
8 and rental per acre figures. If, as a result of the re-
9 view, the Secretary concerned determines that such
10 a revision is warranted, the Secretary concerned
11 shall revise the base zones and rental per acre fig-
12 ures accordingly. Any revision of base zones and
13 rental per acre figure shall only affect lease rental
14 rates at inception or renewal.”.

15 (b) RIGHTS-OF-WAY UNDER MINERAL LEASING
16 ACT.—Section 28(*l*) of the Mineral Leasing Act (30
17 U.S.C. 185(*l*)) is amended by inserting before the period
18 at the end the following: “using the valuation method de-
19 scribed in section 2803.1–2 of title 43, Code of Federal
20 Regulations, as revised in accordance with section 504(k)
21 of the Federal Land Policy and Management Act of 1976
22 (43 U.S.C. 1764(k))”.

23 **SEC. 351. ENERGY FACILITY RIGHTS-OF-WAY AND COR-**
24 **RIDORS ON FEDERAL LAND.**

25 (a) REPORT TO CONGRESS.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, the Secretary of
3 Agriculture and the Secretary of the Interior, in con-
4 sultation with the Secretary of Commerce, the Sec-
5 retary of Defense, the Secretary of Energy, and the
6 Federal Energy Regulatory Commission, shall sub-
7 mit to the Congress a joint report—

8 (A) that addresses—

9 (i) the location of existing rights-of-
10 way and designated and de facto corridors
11 for oil and gas pipelines and electric trans-
12 mission and distribution facilities on Fed-
13 eral land; and

14 (ii) opportunities for additional oil
15 and gas pipeline and electric transmission
16 capacity within those rights-of-way and
17 corridors; and

18 (B) that includes a plan for making avail-
19 able, on request, to the appropriate Federal,
20 State, and local agencies, tribal governments,
21 and other persons involved in the siting of oil
22 and gas pipelines and electricity transmission
23 facilities Geographic Information System-based
24 information regarding the location of the exist-

1 ing rights-of-way and corridors and any planned
2 rights-of-way and corridors.

3 (2) CONSULTATIONS AND CONSIDERATIONS.—

4 In preparing the report, the Secretary of the Interior
5 and the Secretary of Agriculture shall consult
6 with—

7 (A) other agencies of Federal, State, tribal,
8 or local units of government, as appropriate;

9 (B) persons involved in the siting of oil
10 and gas pipelines and electric transmission fa-
11 cilities; and

12 (C) other interested members of the public.

13 (3) LIMITATION.—The Secretary of the Interior
14 and the Secretary of Agriculture shall limit the dis-
15 tribution of the report and Geographic Information
16 System-based information referred to in paragraph
17 (1) as necessary for national and infrastructure se-
18 curity reasons, if either Secretary determines that
19 the information may be withheld from public disclo-
20 sure under a national security or other exception
21 under section 552(b) of title 5, United States Code.

22 (b) CORRIDOR DESIGNATIONS.—

23 (1) 11 CONTIGUOUS WESTERN STATES.—Not
24 later than 2 years after the date of enactment of
25 this Act, the Secretary of Agriculture, the Secretary

1 of Commerce, the Secretary of Defense, the Sec-
2 retary of Energy, and the Secretary of the Interior,
3 in consultation with the Federal Energy Regulatory
4 Commission and the affected utility industries, shall
5 jointly—

6 (A) designate, under title V of the Federal
7 Land Policy and Management Act of 1976 (43
8 U.S.C. 1761 et seq.) and other applicable Fed-
9 eral laws, corridors for oil and gas pipelines and
10 electricity transmission and facilities on Federal
11 land in the eleven contiguous Western States
12 (as defined in section 103 of the Federal Land
13 Policy and Management Act of 1976 (43 U.S.C.
14 1702));

15 (B) perform any environmental reviews
16 that may be required to complete the designa-
17 tions of corridors for the facilities on Federal
18 land in the eleven contiguous Western States;
19 and

20 (C) incorporate the designated corridors
21 into—

22 (i) the relevant departmental and
23 agency land use and resource management
24 plans; or

25 (ii) equivalent plans.

1 (2) OTHER STATES.—Not later than 4 years
2 after the date of enactment of this Act, the Sec-
3 retary of Agriculture, the Secretary of Commerce,
4 the Secretary of Defense, the Secretary of Energy,
5 and the Secretary of the Interior, in consultation
6 with the Federal Energy Regulatory Commission
7 and the affected utility industries, shall jointly—

8 (A) identify corridors for oil and gas pipe-
9 lines and electricity transmission and distribu-
10 tion facilities on Federal land in the States
11 other than those described in paragraph (1);
12 and

13 (B) schedule prompt action to identify,
14 designate, and incorporate the corridors into
15 the land use plan.

16 (3) ONGOING RESPONSIBILITIES.—After com-
17 pleting the requirements under paragraphs (1) and
18 (2), the Secretary of Agriculture, the Secretary of
19 Commerce, the Secretary of Defense, the Secretary
20 of Energy, and the Secretary of the Interior, in con-
21 sultation with the Federal Energy Regulatory Com-
22 mission and the affected utility industries, shall es-
23 tablish procedures that—

24 (A) ensure that additional corridors for oil
25 and gas pipelines and electricity transmission

1 and distribution facilities on Federal land are
2 promptly identified and designated; and

3 (B) expedite applications to construct or
4 modify oil and gas pipelines and electricity
5 transmission and distribution facilities within
6 the corridors, taking into account prior analyses
7 and environmental reviews undertaken during
8 the designation of corridors.

9 (c) CONSIDERATIONS.—In carrying out this section,
10 the Secretaries shall take into account the need for up-
11 graded and new electricity transmission and distribution
12 facilities to—

13 (1) improve reliability;
14 (2) relieve congestion; and
15 (3) enhance the capability of the national grid
16 to deliver electricity.

17 (d) DEFINITION OF CORRIDOR.—

18 (1) IN GENERAL.—In this section and title V of
19 the Federal Land Policy and Management Act of
20 1976 (43 U.S.C. 1761 et seq.), the term “corridor”
21 means—

22 (A) a linear strip of land—

23 (i) with a width determined with con-
24 sideration given to technological, environ-
25 mental, and topographical factors; and

1 (ii) that contains, or may in the fu-
2 ture contain, 1 or more utility, communica-
3 tion, or transportation facilities;

4 (B) a land use designation that is
5 established—

6 (i) by law;

7 (ii) by Secretarial Order;

8 (iii) through the land use planning
9 process; or

10 (iv) by other management decision;

11 and

12 (C) a designation made for the purpose of
13 establishing the preferred location of compatible
14 linear facilities and land uses.

15 (2) SPECIFICATIONS OF CORRIDOR.—On des-
16 ignation of a corridor under this section, the center-
17 line, width, and compatible uses of a corridor shall
18 be specified.

19 **SEC. 352. CONSULTATION REGARDING ENERGY RIGHTS-OF-**
20 **WAY ON PUBLIC LAND.**

21 (a) MEMORANDUM OF UNDERSTANDING.—

22 (1) IN GENERAL.—Not later than 6 months
23 after the date of enactment of this Act, the Sec-
24 retary of Energy, in consultation with the Secretary
25 of the Interior, the Secretary of Agriculture, and the

1 Secretary of Defense, shall enter into a memo-
2 randum of understanding to coordinate all applicable
3 Federal authorizations and environmental reviews
4 relating to a proposed or existing utility facility. To
5 the maximum extent practicable under applicable
6 law, the Secretary of Energy shall, to ensure timely
7 review and permit decisions, coordinate such author-
8 izations and reviews with any Indian tribes, multi-
9 State entities, and State agencies that are respon-
10 sible for conducting any separate permitting and en-
11 vironmental reviews of the affected utility facility.

12 (2) CONTENTS.—The memorandum of under-
13 standing shall include provisions that—

14 (A) establish—

15 (i) a unified right-of-way application
16 form; and

17 (ii) an administrative procedure for
18 processing right-of-way applications, in-
19 cluding lines of authority, steps in applica-
20 tion processing, and timeframes for appli-
21 cation processing;

22 (B) provide for coordination of planning
23 relating to the granting of the rights-of-way;

24 (C) provide for an agreement among the
25 affected Federal agencies to prepare a single

1 environmental review document to be used as
2 the basis for all Federal authorization decisions;
3 and

4 (D) provide for coordination of use of
5 right-of-way stipulations to achieve consistency.

6 (b) NATURAL GAS PIPELINES.—

7 (1) IN GENERAL.—With respect to permitting
8 activities for interstate natural gas pipelines, the
9 May 2002 document entitled “Interagency Agree-
10 ment On Early Coordination Of Required Environ-
11 mental And Historic Preservation Reviews Con-
12 ducted In Conjunction With The Issuance Of Au-
13 thorizations To Construct And Operate Interstate
14 Natural Gas Pipelines Certificated By The Federal
15 Energy Regulatory Commission” shall constitute
16 compliance with subsection (a).

17 (2) REPORT.—

18 (A) IN GENERAL.—Not later than 1 year
19 after the date of enactment of this Act, and
20 every 2 years thereafter, agencies that are sig-
21 natories to the document referred to in para-
22 graph (1) shall transmit to the Congress a re-
23 port on how the agencies under the jurisdiction
24 of the Secretaries are incorporating and imple-

1 menting the provisions of the document referred
2 to in paragraph (1).

3 (B) CONTENTS.—The report shall
4 address—

5 (i) efforts to implement the provisions
6 of the document referred to in paragraph
7 (1);

8 (ii) whether the efforts have had a
9 streamlining effect;

10 (iii) further improvements to the per-
11 mitting process of the agency; and

12 (iv) recommendations for inclusion of
13 State and tribal governments in a coordi-
14 nated permitting process.

15 (c) DEFINITION OF UTILITY FACILITY.—In this sec-
16 tion, the term “utility facility” means any privately, pub-
17 licly, or cooperatively owned line, facility, or system—

18 (1) for the transportation of—

19 (A) oil, natural gas, synthetic liquid fuel,
20 or gaseous fuel;

21 (B) any refined product produced from oil,
22 natural gas, synthetic liquid fuel, or gaseous
23 fuel; or

1 (C) products in support of the production
2 of material referred to in subparagraph (A) or
3 (B);

4 (2) for storage and terminal facilities in connec-
5 tion with the production of material referred to in
6 paragraph (1); or

7 (3) for the generation, transmission, and dis-
8 tribution of electric energy.

9 **SEC. 353. RENEWABLE ENERGY ON FEDERAL LAND.**

10 (a) REPORT.—

11 (1) IN GENERAL.—Not later than 24 months
12 after the date of enactment of this Act, the Sec-
13 retary of the Interior, in cooperation with the Sec-
14 retary of Agriculture, shall develop and transmit to
15 the Congress a report that includes recommenda-
16 tions on opportunities to develop renewable energy
17 on—

18 (A) public lands under the jurisdiction of
19 the Secretary of the Interior; and

20 (B) National Forest System lands under
21 the jurisdiction of the Secretary of Agriculture.

22 (2) CONTENTS.—The report shall include—

23 (A) 5-year plans developed by the Sec-
24 retary of the Interior and the Secretary of Agri-
25 culture, respectively, for encouraging the devel-

1 opment of renewable energy consistent with ap-
2 plicable law and management plans;

3 (B) an analysis of—

4 (i) the use of rights-of-way, leases, or
5 other methods to develop renewable energy
6 on such lands;

7 (ii) the anticipated benefits of grants,
8 loans, tax credits, or other provisions to
9 promote renewable energy development on
10 such lands; and

11 (iii) any issues that the Secretary of
12 the Interior or the Secretary of Agriculture
13 have encountered in managing renewable
14 energy projects on such lands, believe are
15 likely to arise in relation to the develop-
16 ment of renewable energy on such lands;

17 (C) a list, developed in consultation with
18 the Secretary of Energy and the Secretary of
19 Defense, of lands under the jurisdiction of the
20 Department of Energy or the Department of
21 Defense that would be suitable for development
22 for renewable energy, and any recommended
23 statutory and regulatory mechanisms for such
24 development; and

1 (D) any recommendations relating to the
2 issues addressed in the report.

3 (b) NATIONAL ACADEMY OF SCIENCES STUDY.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of enactment of this Act, the Secretary of
6 the Interior shall contract with the National Acad-
7 emy of Sciences to—

8 (A) study the potential for the development
9 of wind, solar, and ocean energy (including
10 tidal, wave, and thermal energy) on the outer
11 Continental Shelf;

12 (B) assess existing Federal authorities for
13 the development of such resources; and

14 (C) recommend statutory and regulatory
15 mechanisms for such development.

16 (2) TRANSMITTAL.—The results of the study
17 shall be transmitted to the Congress not later than
18 2 years after the date of enactment of this Act.

19 (c) GENERATION CAPACITY OF ELECTRICITY FROM
20 RENEWABLE ENERGY RESOURCES ON PUBLIC LAND.—

21 The Secretary of the Interior shall, within 10 years after
22 the date of enactment of this Act, seek to approve renew-
23 able energy projects located (or to be located) on public
24 lands with a generation capacity of at least 10,000
25 megawatts of electricity.

1 **SEC. 354. ELECTRICITY TRANSMISSION LINE RIGHT-OF-**
2 **WAY, CLEVELAND NATIONAL FOREST AND**
3 **ADJACENT PUBLIC LAND, CALIFORNIA.**

4 (a) ISSUANCE.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the completion of the environmental reviews under
7 subsection (c), the Secretary of the Interior and the
8 Secretary of Agriculture shall issue all necessary
9 grants, easements, permits, plan amendments, and
10 other approvals to allow for the siting and construc-
11 tion of a high-voltage electricity transmission line
12 right-of-way running approximately north to south
13 through the Trabuco Ranger District of the Cleve-
14 land National Forest in the State of California and
15 adjacent lands under the jurisdiction of the Bureau
16 of Land Management and the Forest Service.

17 (2) INCLUSIONS.—The right-of-way approvals
18 under paragraph (1) shall provide all necessary Fed-
19 eral authorization from the Secretary of the Interior
20 and the Secretary of Agriculture for the routing,
21 construction, operation, and maintenance of a 500-
22 kilovolt transmission line capable of meeting the
23 long-term electricity transmission needs of the region
24 between the existing Valley-Serrano transmission
25 line to the north and the Telega-Escondido trans-
26 mission line to the south, and for connecting to fu-

1 ture generating capacity that may be developed in
2 the region.

3 (b) PROTECTION OF WILDERNESS AREAS.—The Sec-
4 retary of the Interior and the Secretary of Agriculture
5 shall not allow any portion of a transmission line right-
6 of-way corridor identified in subsection (a) to enter any
7 identified wilderness area in existence as of the date of
8 enactment of this Act.

9 (c) ENVIRONMENTAL AND ADMINISTRATIVE RE-
10 VIEWS.—

11 (1) DEPARTMENT OF INTERIOR OR LOCAL
12 AGENCY.—The Secretary of the Interior, acting
13 through the Director of the Bureau of Land Man-
14 agement, shall be the lead Federal agency with over-
15 all responsibility to ensure completion of required
16 environmental and other reviews of the approvals to
17 be issued under subsection (a).

18 (2) NATIONAL FOREST SYSTEM LAND.—For the
19 portions of the corridor on National Forest System
20 lands, the Secretary of Agriculture shall complete all
21 required environmental reviews and administrative
22 actions in coordination with the Secretary of the In-
23 terior.

24 (3) EXPEDITIOUS COMPLETION.—The reviews
25 required for issuance of the approvals under sub-

1 section (a) shall be completed not later than 1 year
2 after the date of the enactment of this Act.

3 (d) OTHER TERMS AND CONDITIONS.—The trans-
4 mission line right-of-way shall be subject to such terms
5 and conditions as the Secretary of the Interior and the
6 Secretary of Agriculture consider necessary, based on the
7 environmental reviews under subsection (c), to protect the
8 value of historic, cultural, and natural resources under the
9 jurisdiction of the Secretary of the Interior or the Sec-
10 retary of Agriculture.

11 (e) PREFERENCE AMONG PROPOSALS.—The Sec-
12 retary of the Interior and the Secretary of Agriculture
13 shall give a preference to any application or preapplication
14 proposal for a transmission line right-of-way referred to
15 in subsection (a) that was submitted before December 31,
16 2002, over all other applications and proposals for the
17 same or a similar right-of-way submitted on or after that
18 date.

19 **SEC. 355. SENSE OF CONGRESS REGARDING DEVELOPMENT**
20 **OF MINERALS UNDER PADRE ISLAND NA-**
21 **TIONAL SEASHORE.**

22 (a) FINDINGS.—The Congress finds the following:

23 (1) Pursuant to Public Law 87–712 (16 U.S.C.
24 459d et seq.; popularly known as the “Federal Ena-
25 bling Act”) and various deeds and actions under

1 that Act, the United States is the owner of only the
2 surface estate of certain lands constituting the
3 Padre Island National Seashore.

4 (2) Ownership of the oil, gas, and other min-
5 erals in the subsurface estate of the lands consti-
6 tuting the Padre Island National Seashore was never
7 acquired by the United States, and ownership of
8 those interests is held by the State of Texas and pri-
9 vate parties.

10 (3) Public Law 87–712 (16 U.S.C. 459d et
11 seq.)—

12 (A) expressly contemplated that the United
13 States would recognize the ownership and fu-
14 ture development of the oil, gas, and other min-
15 erals in the subsurface estate of the lands con-
16 stituting the Padre Island National Seashore by
17 the owners and their mineral lessees; and

18 (B) recognized that approval of the State
19 of Texas was required to create Padre Island
20 National Seashore.

21 (4) Approval was given for the creation of
22 Padre Island National Seashore by the State of
23 Texas through Tex. Rev. Civ. Stat. Ann. Art.
24 6077(t) (Vernon 1970), which expressly recognized
25 that development of the oil, gas, and other minerals

1 in the subsurface of the lands constituting Padre Is-
2 land National Seashore would be conducted with full
3 rights of ingress and egress under the laws of the
4 State of Texas.

5 (b) SENSE OF CONGRESS.—It is the sense of the
6 Congress that with regard to Federal law, any regulation
7 of the development of oil, gas, or other minerals in the
8 subsurface of the lands constituting Padre Island National
9 Seashore should be made as if those lands retained the
10 status that the lands had on September 27, 1962.

11 **SEC. 356. ENCOURAGING PROHIBITION OF OFF-SHORE**
12 **DRILLING IN THE GREAT LAKES.**

13 The Congress encourages—

14 (1) the States of Illinois, Michigan, New York,
15 Pennsylvania, and Wisconsin to continue to prohibit
16 offshore drilling in the Great Lakes for oil and gas;
17 and

18 (2) the States of Indiana, Minnesota, and Ohio
19 to enact a prohibition of such drilling.

20 **SEC. 357. FINGER LAKES NATIONAL FOREST WITHDRAWAL.**

21 All Federal land within the boundary of Finger Lakes
22 National Forest in the State of New York is withdrawn
23 from—

24 (1) all forms of entry, appropriation, or disposal
25 under the public land laws; and

1 (2) disposition under all laws relating to oil and
2 gas leasing.

3 **SEC. 358. STUDY ON LEASE EXCHANGES IN THE ROCKY**
4 **MOUNTAIN FRONT.**

5 (a) DEFINITIONS.—For the purposes of this section:

6 (1) BADGER-TWO MEDICINE AREA.—The term
7 “Badger-Two Medicine Area” means the Forest
8 Service land located in—

9 (A) T. 31 N., R. 12–13 W.;

10 (B) T. 30 N., R. 11–13 W.;

11 (C) T. 29 N., R. 10–16 W.; and

12 (D) T. 28 N., R. 10–14 W.

13 (2) BLACKLEAF AREA.—The term “Blackleaf
14 Area” means the Federal land owned by the Forest
15 Service and Bureau of Land Management that is lo-
16 cated in—

17 (A) T. 27 N., R. 9 W.;

18 (B) T. 26 N., R. 9–10 W.;

19 (C) T. 25 N., R. 8–10 W.; and

20 (D) T. 24 N., R. 8–9 W.

21 (3) ELIGIBLE LESSEE.—The term “eligible les-
22 see” means a lessee under a nonproducing lease.

23 (4) NONPRODUCING LEASE.—The term “non-
24 producing lease” means a Federal oil or gas lease—

1 (A) that is in existence and in good stand-
2 ing on the date of enactment of this Act;

3 (B) that is located in the Badger-Two
4 Medicine Area or the Blackleaf Area; and

5 (C) for which a final administrative or ju-
6 dicial decision prevents the development of the
7 lease.

8 (5) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 (6) STATE.—The term “State” means the State
11 of Montana.

12 (b) EVALUATION.—

13 (1) IN GENERAL.—The Secretary, in consulta-
14 tion with the Governor of the State, and the eligible
15 lessees, shall evaluate opportunities for domestic oil
16 and gas production through the exchange of the
17 nonproducing leases.

18 (2) REQUIREMENTS.—In carrying out the eval-
19 uation under subsection (a), the Secretary shall—

20 (A) consider opportunities for domestic
21 production of oil and gas through—

22 (i) the exchange of the nonproducing
23 leases for oil and gas lease tracts of com-
24 parable value in the State; and

1 (ii) the issuance of bidding, royalty, or
2 rental credits for Federal oil and gas leases
3 in the State in exchange for the cancella-
4 tion of the nonproducing leases;

5 (B) consider any other appropriate means
6 to exchange, or provide compensation for the
7 cancellation of, nonproducing leases, subject to
8 the consent of the eligible lessees;

9 (C) consider the views of any interested
10 persons, including the State;

11 (D) determine the level of interest of the
12 eligible lessees in exchanging the nonproducing
13 leases;

14 (E) assess the economic impact on the les-
15 sees and the State of lease exchange, lease can-
16 cellation, and final judicial or administrative de-
17 cisions related to the nonproducing leases; and

18 (F) provide recommendations on—

19 (i) whether to pursue an exchange of
20 the nonproducing leases; and

21 (ii) any changes in laws (including
22 regulations) that are necessary for the Sec-
23 retary to carry out the exchange.

24 (c) VALUATION OF NONPRODUCING LEASES.—For
25 the purpose of the evaluation under subsection (a), the

1 value of a nonproducing lease shall be an amount equal
2 to the difference between—

3 (1) the sum of—

4 (A) the amount paid by the eligible lessee
5 for the nonproducing lease;

6 (B) any direct expenditures made by the
7 eligible lessee before the transmittal of the re-
8 port in subsection (c) associated with the explo-
9 ration and development of the nonproducing
10 lease;

11 (C) interest on any amounts under sub-
12 paragraphs (A) and (B) during the period be-
13 ginning on the date on which the amount was
14 paid and ending on the date on which credits
15 are issued under subsection (b)(2)(A)(ii); and

16 (D) the net present value of any booked re-
17 serves; and

18 (2) the sum of the revenues from the nonpro-
19 ducing lease.

20 (d) REPORT TO CONGRESS.—Not later than 1 year
21 following the issuance of a final judicial or administrative
22 decision that prevents the development of the leases, the
23 Secretary shall initiate the evaluation in subsection (b)
24 and transmit to the Congress a report on the evaluation.

1 **Subtitle D—Alaska Natural Gas**
2 **Pipeline**

3 **SEC. 371. SHORT TITLE.**

4 This subtitle may be cited as the “Alaska Natural
5 Gas Pipeline Act”.

6 **SEC. 372. DEFINITIONS.**

7 In this subtitle:

8 (1) ALASKA NATURAL GAS.—The term “Alaska
9 natural gas” means natural gas derived from the
10 area of the State of Alaska lying north of 64 degrees
11 north latitude.

12 (2) ALASKA NATURAL GAS TRANSPORTATION
13 PROJECT.—The term “Alaska natural gas transpor-
14 tation project” means any natural gas pipeline sys-
15 tem that carries Alaska natural gas to the border
16 between Alaska and Canada (including related facili-
17 ties subject to the jurisdiction of the Commission)
18 that is authorized under—

19 (A) the Alaska Natural Gas Transpor-
20 tation Act of 1976 (15 U.S.C. 719 et seq.); or

21 (B) section 373.

22 (3) ALASKA NATURAL GAS TRANSPORTATION
23 SYSTEM.—The term “Alaska natural gas transpor-
24 tation system” means the Alaska natural gas trans-
25 portation project authorized under the Alaska Nat-

1 ural Gas Transportation Act of 1976 (15 U.S.C.
2 719 et seq.) and designated and described in section
3 2 of the President’s decision.

4 (4) COMMISSION.—The term “Commission”
5 means the Federal Energy Regulatory Commission.

6 (5) FEDERAL COORDINATOR.—The term “Fed-
7 eral Coordinator” means the head of the Office of
8 the Federal Coordinator for Alaska Natural Gas
9 Transportation Projects established by section
10 376(a).

11 (6) PRESIDENT’S DECISION.—The term “Presi-
12 dent’s decision” means the decision and report to
13 Congress on the Alaska natural gas transportation
14 system—

15 (A) issued by the President on September
16 22, 1977, in accordance with section 7 of the
17 Alaska Natural Gas Transportation Act of
18 1976 (15 U.S.C. 719e); and

19 (B) approved by Public Law 95–158 (15
20 U.S.C. 719f note; 91 Stat. 1268).

21 (7) SECRETARY.—The term “Secretary” means
22 the Secretary of Energy.

23 (8) STATE.—The term “State” means the State
24 of Alaska.

1 **SEC. 373. ISSUANCE OF CERTIFICATE OF PUBLIC CONVEN-**
2 **IENCE AND NECESSITY.**

3 (a) AUTHORITY OF THE COMMISSION.—Notwith-
4 standing the Alaska Natural Gas Transportation Act of
5 1976 (15 U.S.C. 719 et seq.), the Commission may, in
6 accordance with section 7(c) of the Natural Gas Act (15
7 U.S.C. 717f(c)), consider and act on an application for
8 the issuance of a certificate of public convenience and ne-
9 cessity authorizing the construction and operation of an
10 Alaska natural gas transportation project other than the
11 Alaska natural gas transportation system.

12 (b) ISSUANCE OF CERTIFICATE.—

13 (1) IN GENERAL.—The Commission shall issue
14 a certificate of public convenience and necessity au-
15 thorizing the construction and operation of an Alas-
16 ka natural gas transportation project under this sec-
17 tion if the applicant has satisfied the requirements
18 of section 7(e) of the Natural Gas Act (15 U.S.C.
19 717f(e)).

20 (2) CONSIDERATIONS.—In considering an appli-
21 cation under this section, the Commission shall pre-
22 sume that—

23 (A) a public need exists to construct and
24 operate the proposed Alaska natural gas trans-
25 portation project; and

1 (B) sufficient downstream capacity will
2 exist to transport the Alaska natural gas mov-
3 ing through the project to markets in the con-
4 tiguous United States.

5 (c) EXPEDITED APPROVAL PROCESS.—Not later
6 than 60 days after the date of issuance of the final envi-
7 ronmental impact statement under section 374 for an
8 Alaska natural gas transportation project, the Commission
9 shall issue a final order granting or denying any applica-
10 tion for a certificate of public convenience and necessity
11 for the project under section 7(c) of the Natural Gas Act
12 (15 U.S.C. 717f(c)) and this section.

13 (d) PROHIBITION OF CERTAIN PIPELINE ROUTE.—
14 No license, permit, lease, right-of-way, authorization, or
15 other approval required under Federal law for the con-
16 struction of any pipeline to transport natural gas from
17 land within the Prudhoe Bay oil and gas lease area may
18 be granted for any pipeline that follows a route that—

19 (1) traverses land beneath navigable waters (as
20 defined in section 2 of the Submerged Lands Act
21 (43 U.S.C. 1301)) beneath, or the adjacent shoreline
22 of, the Beaufort Sea; and

23 (2) enters Canada at any point north of 68 de-
24 grees north latitude.

25 (e) OPEN SEASON.—

1 (1) IN GENERAL.—Not later than 120 days
2 after the date of enactment of this Act, the Commis-
3 sion shall promulgate regulations governing the con-
4 duct of open seasons for Alaska natural gas trans-
5 portation projects (including procedures for the allo-
6 cation of capacity).

7 (2) REGULATIONS.—The regulations referred to
8 in paragraph (1) shall—

9 (A) include the criteria for and timing of
10 any open seasons;

11 (B) promote competition in the explo-
12 ration, development, and production of Alaska
13 natural gas; and

14 (C) for any open season for capacity ex-
15 ceeding the initial capacity, provide the oppor-
16 tunity for the transportation of natural gas
17 other than from the Prudhoe Bay and Point
18 Thompson units.

19 (3) APPLICABILITY.—Except in a case in which
20 an expansion is ordered in accordance with section
21 375, initial or expansion capacity on any Alaska nat-
22 ural gas transportation project shall be allocated in
23 accordance with procedures to be established by the
24 Commission in regulations promulgated under para-
25 graph (1).

1 (f) PROJECTS IN THE CONTIGUOUS UNITED
2 STATES.—

3 (1) IN GENERAL.—An application for additional
4 or expanded pipeline facilities that may be required
5 to transport Alaska natural gas from Canada to
6 markets in the contiguous United States may be
7 made in accordance with the Natural Gas Act (15
8 U.S.C. 717a et seq.).

9 (2) EXPANSION.—To the extent that a pipeline
10 facility described in paragraph (1) includes the ex-
11 pansion of any facility constructed in accordance
12 with the Alaska Natural Gas Transportation Act of
13 1976 (15 U.S.C. 719 et seq.), that Act shall con-
14 tinue to apply.

15 (g) STUDY OF IN-STATE NEEDS.—The holder of the
16 certificate of public convenience and necessity issued,
17 modified, or amended by the Commission for an Alaska
18 natural gas transportation project shall demonstrate that
19 the holder has conducted a study of Alaska in-State needs,
20 including tie-in points along the Alaska natural gas trans-
21 portation project for in-State access.

22 (h) ALASKA ROYALTY GAS.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the Commission, on a request by the
25 State and after a hearing, may provide for reason-

1 able access to the Alaska natural gas transportation
2 project by the State (or State designee) for the
3 transportation of royalty gas of the State for the
4 purpose of meeting local consumption needs within
5 the State.

6 (2) EXCEPTION.—The rates of shippers of sub-
7 scribed capacity on an Alaska natural gas transpor-
8 tation project described in paragraph (1), as in ef-
9 fect as of the date on which access under that para-
10 graph is granted, shall not be increased as a result
11 of such access.

12 (i) REGULATIONS.—The Commission may promul-
13 gate such regulations as are necessary to carry out this
14 section.

15 **SEC. 374. ENVIRONMENTAL REVIEWS.**

16 (a) COMPLIANCE WITH NEPA.—The issuance of a
17 certificate of public convenience and necessity authorizing
18 the construction and operation of any Alaska natural gas
19 transportation project under section 373 shall be treated
20 as a major Federal action significantly affecting the qual-
21 ity of the human environment within the meaning of sec-
22 tion 102(2)(C) of the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4332(2)(C)).

24 (b) DESIGNATION OF LEAD AGENCY.—

25 (1) IN GENERAL.—The Commission—

1 (A) shall be the lead agency for purposes
2 of complying with the National Environmental
3 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
4 and

5 (B) shall be responsible for preparing the
6 environmental impact statement required by
7 section 102(2)(c) of that Act (42 U.S.C.
8 4332(2)(c)) with respect to an Alaska natural
9 gas transportation project under section 373.

10 (2) CONSOLIDATION OF STATEMENTS.—In car-
11 rying out paragraph (1), the Commission shall pre-
12 pare a single environmental impact statement, which
13 shall consolidate the environmental reviews of all
14 Federal agencies considering any aspect of the Alas-
15 ka natural gas transportation project covered by the
16 environmental impact statement.

17 (c) OTHER AGENCIES.—

18 (1) IN GENERAL.—Each Federal agency consid-
19 ering an aspect of the construction and operation of
20 an Alaska natural gas transportation project under
21 section 373 shall—

22 (A) cooperate with the Commission; and

23 (B) comply with deadlines established by
24 the Commission in the preparation of the envi-
25 ronmental impact statement under this section.

1 (2) SATISFACTION OF NEPA REQUIREMENTS.—

2 The environmental impact statement prepared under
3 this section shall be adopted by each Federal agency
4 described in paragraph (1) in satisfaction of the re-
5 sponsibilities of the Federal agency under section
6 102(2)(C) of the National Environmental Policy Act
7 of 1969 (42 U.S.C. 4332(2)(C)) with respect to the
8 Alaska natural gas transportation project covered by
9 the environmental impact statement.

10 (d) EXPEDITED PROCESS.—The Commission shall—

11 (1) not later than 1 year after the Commission
12 determines that the application under section 373
13 with respect to an Alaska natural gas transportation
14 project is complete, issue a draft environmental im-
15 pact statement under this section; and

16 (2) not later than 180 days after the date of
17 issuance of the draft environmental impact state-
18 ment, issue a final environmental impact statement,
19 unless the Commission for good cause determines
20 that additional time is needed.

21 **SEC. 375. PIPELINE EXPANSION.**

22 (a) AUTHORITY.—With respect to any Alaska natural
23 gas transportation project, on a request by 1 or more per-
24 sons and after giving notice and an opportunity for a hear-
25 ing, the Commission may order the expansion of the Alas-

1 ka natural gas project if the Commission determines that
2 such an expansion is required by the present and future
3 public convenience and necessity.

4 (b) RESPONSIBILITIES OF COMMISSION.—Before or-
5 dering an expansion under subsection (a), the Commission
6 shall—

7 (1) approve or establish rates for the expansion
8 service that are designed to ensure the recovery, on
9 an incremental or rolled-in basis, of the cost associ-
10 ated with the expansion (including a reasonable rate
11 of return on investment);

12 (2) ensure that the rates do not require existing
13 shippers on the Alaska natural gas transportation
14 project to subsidize expansion shippers;

15 (3) find that a proposed shipper will comply
16 with, and the proposed expansion and the expansion
17 of service will be undertaken and implemented based
18 on, terms and conditions consistent with the tariff of
19 the Alaska natural gas transportation project in ef-
20 fect as of the date of the expansion;

21 (4) find that the proposed facilities will not ad-
22 versely affect the financial or economic viability of
23 the Alaska natural gas transportation project;

1 (5) find that the proposed facilities will not ad-
2 versely affect the overall operations of the Alaska
3 natural gas transportation project;

4 (6) find that the proposed facilities will not di-
5 minish the contract rights of existing shippers to
6 previously subscribed certificated capacity;

7 (7) ensure that all necessary environmental re-
8 views have been completed; and

9 (8) find that adequate downstream facilities
10 exist or are expected to exist to deliver incremental
11 Alaska natural gas to market.

12 (c) REQUIREMENT FOR A FIRM TRANSPORTATION
13 AGREEMENT.—Any order of the Commission issued in ac-
14 cordance with this section shall be void unless the person
15 requesting the order executes a firm transportation agree-
16 ment with the Alaska natural gas transportation project
17 within such reasonable period of time as the order may
18 specify.

19 (d) LIMITATION.—Nothing in this section expands or
20 otherwise affects any authority of the Commission with
21 respect to any natural gas pipeline located outside the
22 State.

23 (e) REGULATIONS.—The Commission may promul-
24 gate such regulations as are necessary to carry out this
25 section.

1 **SEC. 376. FEDERAL COORDINATOR.**

2 (a) ESTABLISHMENT.—There is established, as an
3 independent office in the executive branch, the Office of
4 the Federal Coordinator for Alaska Natural Gas Trans-
5 portation Projects.

6 (b) FEDERAL COORDINATOR.—

7 (1) APPOINTMENT.—The Office shall be headed
8 by a Federal Coordinator for Alaska Natural Gas
9 Transportation Projects, who shall be appointed by
10 the President, by and with the advice and consent
11 of the Senate, to serve a term to last until 1 year
12 following the completion of the project referred to in
13 section 373.

14 (2) COMPENSATION.—The Federal Coordinator
15 shall be compensated at the rate prescribed for level
16 III of the Executive Schedule (5 U.S.C. 5314).

17 (c) DUTIES.—The Federal Coordinator shall be re-
18 sponsible for—

19 (1) coordinating the expeditious discharge of all
20 activities by Federal agencies with respect to an
21 Alaska natural gas transportation project; and

22 (2) ensuring the compliance of Federal agencies
23 with the provisions of this subtitle.

24 (d) REVIEWS AND ACTIONS OF OTHER FEDERAL
25 AGENCIES.—

1 (1) EXPEDITED REVIEWS AND ACTIONS.—All
2 reviews conducted and actions taken by any Federal
3 agency relating to an Alaska natural gas transpor-
4 tation project authorized under this section shall be
5 expedited, in a manner consistent with completion of
6 the necessary reviews and approvals by the deadlines
7 under this subtitle.

8 (2) PROHIBITION OF CERTAIN TERMS AND CON-
9 DITIONS.—No Federal agency may include in any
10 certificate, right-of-way, permit, lease, or other au-
11 thorization issued to an Alaska natural gas trans-
12 portation project any term or condition that may be
13 permitted, but is not required, by any applicable law
14 if the Federal Coordinator determines that the term
15 or condition would prevent or impair in any signifi-
16 cant respect the expeditious construction and oper-
17 ation, or an expansion, of the Alaska natural gas
18 transportation project.

19 (3) PROHIBITION OF CERTAIN ACTIONS.—Un-
20 less required by law, no Federal agency shall add to,
21 amend, or abrogate any certificate, right-of-way, per-
22 mit, lease, or other authorization issued to an Alas-
23 ka natural gas transportation project if the Federal
24 Coordinator determines that the action would pre-
25 vent or impair in any significant respect the expedi-

1 tious construction and operation, or an expansion, of
2 the Alaska natural gas transportation project.

3 (4) LIMITATION.—The Federal Coordinator
4 shall not have authority to—

5 (A) override—

6 (i) the implementation or enforcement
7 of regulations promulgated by the Commis-
8 sion under section 373; or

9 (ii) an order by the Commission to ex-
10 pand the project under section 375; or

11 (B) impose any terms, conditions, or re-
12 quirements in addition to those imposed by the
13 Commission or any agency with respect to con-
14 struction and operation, or an expansion of, the
15 project.

16 (e) STATE COORDINATION.—

17 (1) IN GENERAL.—The Federal Coordinator
18 and the State shall enter into a joint surveillance
19 and monitoring agreement similar to the agreement
20 in effect during construction of the Trans-Alaska
21 Pipeline, to be approved by the President and the
22 Governor of the State, for the purpose of monitoring
23 the construction of the Alaska natural gas transpor-
24 tation project.

1 (2) PRIMARY RESPONSIBILITY.—With respect
2 to an Alaska natural gas transportation project—

3 (A) the Federal Government shall have pri-
4 mary surveillance and monitoring responsibility
5 in areas where the Alaska natural gas transpor-
6 tation project crosses Federal land or private
7 land; and

8 (B) the State government shall have pri-
9 mary surveillance and monitoring responsibility
10 in areas where the Alaska natural gas transpor-
11 tation project crosses State land.

12 (f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS
13 AND AUTHORITY.—On appointment of the Federal Coor-
14 dinator by the President, all of the functions and authority
15 of the Office of Federal Inspector of Construction for the
16 Alaska Natural Gas Transportation System vested in the
17 Secretary under section 3012(b) of the Energy Policy Act
18 of 1992 (15 U.S.C. 719e note; Public Law 102–486), in-
19 cluding all functions and authority described and enumer-
20 ated in the Reorganization Plan No. 1 of 1979 (44 Fed.
21 Reg. 33663), Executive Order No. 12142 of June 21,
22 1979 (44 Fed. Reg. 36927), and section 5 of the Presi-
23 dent’s decision, shall be transferred to the Federal Coordi-
24 nator.

1 **SEC. 377. JUDICIAL REVIEW.**

2 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
3 the Supreme Court on writ of certiorari, the United States
4 Court of Appeals for the District of Columbia Circuit shall
5 have original and exclusive jurisdiction to determine—

6 (1) the validity of any final order or action (in-
7 cluding a failure to act) of any Federal agency or of-
8 ficer under this subtitle;

9 (2) the constitutionality of any provision of this
10 subtitle, or any decision made or action taken under
11 this subtitle; or

12 (3) the adequacy of any environmental impact
13 statement prepared under the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
15 with respect to any action under this subtitle.

16 (b) **DEADLINE FOR FILING CLAIM.**—A claim arising
17 under this subtitle may be brought not later than 60 days
18 after the date of the decision or action giving rise to the
19 claim.

20 (c) **EXPEDITED CONSIDERATION.**—The United
21 States Court of Appeals for the District of Columbia Cir-
22 cuit shall set any action brought under subsection (a) for
23 expedited consideration, taking into account the national
24 interest of enhancing national energy security by providing
25 access to the significant gas reserves in Alaska needed to
26 meet the anticipated demand for natural gas.

1 (d) AMENDMENT OF THE ALASKA NATURAL GAS
2 TRANSPORTATION ACT OF 1976.—Section 10(c) of the
3 Alaska Natural Gas Transportation Act of 1976 (15
4 U.S.C. 719h) is amended—

5 (1) by striking “(c)(1) A claim” and inserting
6 the following:

7 “(c) JURISDICTION.—

8 “(1) SPECIAL COURTS.—

9 “(A) IN GENERAL.—A claim”;

10 (2) by striking “Such court shall have” and in-
11 serting the following:

12 “(B) EXCLUSIVE JURISDICTION.—The
13 Special Court shall have”;

14 (3) by inserting after paragraph (1) the fol-
15 lowing:

16 “(2) EXPEDITED CONSIDERATION.—The Spe-
17 cial Court shall set any action brought under this
18 section for expedited consideration, taking into ac-
19 count the national interest described in section 2.”;
20 and

21 (4) in paragraph (3), by striking “(3) The en-
22 actment” and inserting the following:

23 “(3) ENVIRONMENTAL IMPACT STATEMENTS.—
24 The enactment”.

1 **SEC. 378. STATE JURISDICTION OVER IN-STATE DELIVERY**
2 **OF NATURAL GAS.**

3 (a) LOCAL DISTRIBUTION.—Any facility receiving
4 natural gas from an Alaska natural gas transportation
5 project for delivery to consumers within the State—

6 (1) shall be deemed to be a local distribution fa-
7 cility within the meaning of section 1(b) of the Nat-
8 ural Gas Act (15 U.S.C. 717(b)); and

9 (2) shall not be subject to the jurisdiction of the
10 Commission.

11 (b) ADDITIONAL PIPELINES.—Except as provided in
12 section 373(d), nothing in this subtitle shall preclude or
13 otherwise affect a future natural gas pipeline that may
14 be constructed to deliver natural gas to Fairbanks, An-
15 chorage, Matanuska-Susitna Valley, or the Kenai penin-
16 sula or Valdez or any other site in the State for consump-
17 tion within or distribution outside the State.

18 (c) RATE COORDINATION.—

19 (1) IN GENERAL.—In accordance with the Nat-
20 ural Gas Act (15 U.S.C. 717a et seq.), the Commis-
21 sion shall establish rates for the transportation of
22 natural gas on any Alaska natural gas transpor-
23 tation project.

24 (2) CONSULTATION.—In carrying out para-
25 graph (1), the Commission, in accordance with sec-
26 tion 17(b) of the Natural Gas Act (15 U.S.C.

1 717p(b)), shall consult with the State regarding
2 rates (including rate settlements) applicable to nat-
3 ural gas transported on and delivered from the Alas-
4 ka natural gas transportation project for use within
5 the State.

6 **SEC. 379. STUDY OF ALTERNATIVE MEANS OF CONSTRUC-**
7 **TION.**

8 (a) REQUIREMENT OF STUDY.—If no application for
9 the issuance of a certificate or amended certificate of pub-
10 lic convenience and necessity authorizing the construction
11 and operation of an Alaska natural gas transportation
12 project has been filed with the Commission by the date
13 that is 18 months after the date of enactment of this Act,
14 the Secretary shall conduct a study of alternative ap-
15 proaches to the construction and operation of such an
16 Alaska natural gas transportation project.

17 (b) SCOPE OF STUDY.—The study under subsection
18 (a) shall take into consideration the feasibility of—

19 (1) establishing a Federal Government corpora-
20 tion to construct an Alaska natural gas transpor-
21 tation project; and

22 (2) securing alternative means of providing
23 Federal financing and ownership (including alter-
24 native combinations of Government and private cor-

1 porate ownership) of the Alaska natural gas trans-
2 portation project.

3 (c) CONSULTATION.—In conducting the study under
4 subsection (a), the Secretary shall consult with the Sec-
5 retary of the Treasury and the Secretary of the Army (act-
6 ing through the Chief of Engineers).

7 (d) REPORT.—On completion of any study under sub-
8 section (a), the Secretary shall submit to Congress a re-
9 port that describes—

10 (1) the results of the study; and

11 (2) any recommendations of the Secretary (in-
12 cluding proposals for legislation to implement the
13 recommendations).

14 **SEC. 380. CLARIFICATION OF ANGTA STATUS AND AU-**
15 **THORITIES.**

16 (a) SAVINGS CLAUSE.—Nothing in this subtitle
17 affects—

18 (1) any decision, certificate, permit, right-of-
19 way, lease, or other authorization issued under sec-
20 tion 9 of the Alaska Natural Gas Transportation Act
21 of 1976 (15 U.S.C. 719g); or

22 (2) any Presidential finding or waiver issued in
23 accordance with that Act.

24 (b) CLARIFICATION OF AUTHORITY TO AMEND
25 TERMS AND CONDITIONS TO MEET CURRENT PROJECT

1 REQUIREMENTS.—Any Federal agency responsible for
2 granting or issuing any certificate, permit, right-of-way,
3 lease, or other authorization under section 9 of the Alaska
4 Natural Gas Transportation Act of 1976 (15 U.S.C.
5 719g) may add to, amend, or rescind any term or condi-
6 tion included in the certificate, permit, right-of-way, lease,
7 or other authorization to meet current project require-
8 ments (including the physical design, facilities, and tariff
9 specifications), if the addition, amendment, or rescission—

10 (1) would not compel any change in the basic
11 nature and general route of the Alaska natural gas
12 transportation system as designated and described in
13 section 2 of the President’s decision; or

14 (2) would not otherwise prevent or impair in
15 any significant respect the expeditious construction
16 and initial operation of the Alaska natural gas
17 transportation system.

18 (c) UPDATED ENVIRONMENTAL REVIEWS.—The Sec-
19 retary shall require the sponsor of the Alaska natural gas
20 transportation system to submit such updated environ-
21 mental data, reports, permits, and impact analyses as the
22 Secretary determines are necessary to develop detailed
23 terms, conditions, and compliance plans required by sec-
24 tion 5 of the President’s decision.

1 **SEC. 381. SENSE OF CONGRESS CONCERNING USE OF**
2 **STEEL MANUFACTURED IN NORTH AMERICA**
3 **NEGOTIATION OF A PROJECT LABOR AGREE-**
4 **MENT.**

5 It is the sense of Congress that—

6 (1) an Alaska natural gas transportation
7 project would provide significant economic benefits
8 to the United States and Canada; and

9 (2) to maximize those benefits, the sponsors of
10 the Alaska natural gas transportation project should
11 make every effort to—

12 (A) use steel that is manufactured in
13 North America; and

14 (B) negotiate a project labor agreement to
15 expedite construction of the pipeline.

16 **SEC. 382. SENSE OF CONGRESS AND STUDY CONCERNING**
17 **PARTICIPATION BY SMALL BUSINESS CON-**
18 **CERNS.**

19 (a) DEFINITION OF SMALL BUSINESS CONCERN.—

20 In this section, the term “small business concern” has the
21 meaning given the term in section 3(a) of the Small Busi-
22 ness Act (15 U.S.C. 632(a)).

23 (b) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that—

1 (1) an Alaska natural gas transportation
2 project would provide significant economic benefits
3 to the United States and Canada; and

4 (2) to maximize those benefits, the sponsors of
5 the Alaska natural gas transportation project should
6 maximize the participation of small business con-
7 cerns in contracts and subcontracts awarded in car-
8 rying out the project.

9 (c) STUDY.—

10 (1) IN GENERAL.—The Comptroller General of
11 the United States shall conduct a study to determine
12 the extent to which small business concerns partici-
13 pate in the construction of oil and gas pipelines in
14 the United States.

15 (2) REPORT.—Not later than 1 year after the
16 date of enactment of this Act, the Comptroller Gen-
17 eral shall submit to Congress a report that describes
18 results of the study under paragraph (1).

19 (3) UPDATES.—The Comptroller General
20 shall—

21 (A) update the study at least once every 5
22 years until construction of an Alaska natural
23 gas transportation project is completed; and

1 (B) on completion of each update, submit
2 to Congress a report containing the results of
3 the update.

4 **SEC. 383. ALASKA PIPELINE CONSTRUCTION TRAINING**
5 **PROGRAM.**

6 (a) ESTABLISHMENT OF PROGRAM.—Subject to sub-
7 sections (b) and (c), the Secretary of Labor may make
8 grants to the Alaska Department of Labor and Workforce
9 Development—

10 (1) to develop a plan to train, through the
11 workforce investment system established in the State
12 under subtitle B of title I of the Workforce Invest-
13 ment Act of 1998 (29 U.S.C. 2811 et seq.), adult
14 and dislocated workers, including Alaska Natives, in
15 urban and rural Alaska in the skills required to con-
16 struct and operate an Alaska gas pipeline system;
17 and

18 (2) to implement the plan developed in accord-
19 ance with paragraph (1).

20 (b) REQUIREMENTS FOR PLANNING GRANTS.—The
21 Secretary of Labor may make a grant under subsection
22 (a)(1) only if—

23 (1) the Governor of the State certifies in writ-
24 ing to the Secretary of Labor that there is a reason-
25 able expectation that construction of an Alaska gas

1 pipeline will commence by the date that is 3 years
2 after the date of the certification; and

3 (2) the Secretary of the Interior concurs in
4 writing to the Secretary of Labor with the certifi-
5 cation made under paragraph (1).

6 (c) REQUIREMENTS FOR IMPLEMENTATION
7 GRANTS.—The Secretary of Labor may make a grant
8 under subsection (a)(2) only if—

9 (1) the Secretary of Labor approves a plan de-
10 veloped in accordance with subsection (a)(1);

11 (2) the Governor of the State requests the
12 grant funds and certifies in writing to the Secretary
13 of Labor that there is a reasonable expectation that
14 the construction of an Alaska natural gas pipeline
15 system will commence by the date that is 2 years
16 after the date of the certification; and

17 (3) the Secretary of the Interior concurs in
18 writing to the Secretary of Labor with the certifi-
19 cation made under paragraph (2) after
20 considering—

21 (A) the status of necessary Federal and
22 State permits;

23 (B) the availability of financing for the
24 Alaska natural gas pipeline project; and

25 (C) other relevant factors.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of
3 Labor to carry out this section \$20,000,000.

4 **SEC. 384. SENSE OF CONGRESS CONCERNING NATURAL**
5 **GAS DEMAND.**

6 It is the sense of Congress that—

7 (1) North American demand for natural gas
8 will increase dramatically over the course of the next
9 several decades;

10 (2) both the Alaska Natural Gas Pipeline and
11 the McKenzie Delta Natural Gas project in Canada
12 will be necessary to help meet the increased demand
13 for natural gas in North America;

14 (3) Federal and State officials should work to-
15 gether with officials in Canada to ensure both
16 projects can move forward in a mutually beneficial
17 fashion;

18 (4) Federal and State officials should acknowl-
19 edge that the smaller scope, fewer permitting re-
20 quirements, and lower cost of the McKenzie Delta
21 project means it will most likely be completed before
22 the Alaska Natural Gas Pipeline;

23 (5) natural gas production in the 48 contiguous
24 States and Canada will not be able to meet all do-
25 mestic demand in the coming decades; and

1 (6) as a result, natural gas delivered from Alas-
2 kan North Slope will not displace or reduce the com-
3 mercial viability of Canadian natural gas produced
4 from the McKenzie Delta or production from the 48
5 contiguous States.

6 **SEC. 385. SENSE OF CONGRESS CONCERNING ALASKAN**
7 **OWNERSHIP.**

8 It is the sense of Congress that—

9 (1) Alaska Native Regional Corporations, com-
10 panies owned and operated by Alaskans, and indi-
11 vidual Alaskans should have the opportunity to own
12 shares of the Alaska natural gas pipeline in a way
13 that promotes economic development for the State;
14 and

15 (2) to facilitate economic development in the
16 State, all project sponsors should negotiate in good
17 faith with any willing Alaskan person that desires to
18 be involved in the project.